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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 927

[Doc. No. AMS–SC–20–0063; SC20–927–1 FR]

Pears Grown in Oregon and Washington; Modification of the Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies the handling regulation prescribed under the Federal marketing order regulating the handling of pears grown in Oregon and Washington.

DATES: Effective April 23, 2021.

FOR FURTHER INFORMATION CONTACT: Dale Novotny, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724 or email: *DaleJ.Novotny@usda.gov* or *GaryD.Olson@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, or email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Agreement and Order No. 927, as amended (7 CFR part 927), regulating the handling of pears grown in Oregon and Washington. Part 927 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Fresh Pear Committee (Committee) locally administers the Order and is comprised of growers and handlers of pears operating within Oregon and Washington, and a public member.

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to a marketing order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

This final rule modifies the handling regulation prescribed under the marketing order for pears grown in Oregon and Washington. This action decreases from 14 pounds to 13 pounds, the maximum acceptable pressure for early season Beurre D'Anjou variety pears shipped throughout the Continental United States and to Canada during the period August 15 to November 1. The maximum pressure for Anjou pear shipments to Mexico during this period remains at 14 pounds. In addition, this action removes the exemption from handling requirements for Anjou pear shipments of 8,800 pounds or less. The Committee recommended these actions at its May 26, 2020, meeting.

Section 927.51 authorizes the Committee, with the approval of USDA, to regulate the handling of pears grown within the production area of Oregon and Washington. Section 927.52 stipulates the prerequisites for recommendations made by the Committee with regards to the issuance, modification, suspension, or termination of handling regulations established under the authority of § 927.51. Section 927.316 sets forth the handling requirements for fresh Anjou pears.

At its May 26, 2020, meeting, the Committee recommended modification of the handling regulation for the 2021–2022 and subsequent fiscal periods. The Committee's recommendation was not unanimous but met the requirements of § 927.52 for recommendations to modify the Order's handling regulation. For recommendations to change the handling regulations, the Committee vote is weighted by volume. The Order provision allocates Committee members one vote for each 25,000 boxes of the average quantity of such variety or subvariety produced in their district and shipped therefrom during the immediately preceding three fiscal periods. The provision further requires that recommendations for changes to the handling regulations shall be affirmed by members representing no less than 80 percent of the volume of the variety or subvariety affected. There were 397 votes cast at the meeting. The Committee voted 343 (86 percent) in favor of the recommendation, 48 votes (12 percent) opposed, with 6 votes (2 percent) abstaining. The voters in opposition expressed concern that the modification of the handling regulation could hamper total sales of early season Anjou pears. The members abstaining represented very little, if any, Anjou production.

The Committee discussed the modification of the handling regulation specific to early season Anjou pears several times in the past. The Committee established a subcommittee to talk with industry members and researchers to weigh the benefits of different regulatory options. Research conducted using Committee funds has demonstrated that Anjou pears harvested at higher pressures tend to not ripen properly. Most North American consumers prefer a pear that will ripen and be ready to eat quickly after

purchase. Lowering the maximum pressure requirement by 1 pound, from 14 pounds to 13 pounds for the Continental United States and Canada, will help ensure consumers in those areas consistently receive the product they prefer. International market and consumer research conducted for the Committee has demonstrated that the Mexican market is more receptive to a firmer pear, which led to the decision to leave the pressure at 14 pounds for early season shipments to Mexico.

In addition, removing the 8,800 minimum quantity exemption will ensure that even small shipments of early season Anjou pears conform to the maximum pressure requirements and that all product shipped during this period is of similar quality.

The Committee derived its recommendation to modify the handling regulation from lengthy discussions with industry members at multiple public meetings, from subcommittee input, and from research conducted using Committee funds.

This rule lowers the acceptable pressure, from 14 pounds to 13 pounds, of early season Anjou pear shipments destined for the Continental United States and Canada, and removes the minimum quantity exemption for all early season Anjou shipments. It is the Committee's determination that this modification will increase consumer preference for Anjou pears in the fresh fruit market by delivering a better eating experience and will provide increased returns to handlers and growers.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 838 growers of pears for the fresh market in the regulated area and approximately 32 handlers of pears who are subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $1,000,000, and small agricultural service firms have been defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

According to the most recent data from the National Agricultural Statistics Service (NASS), the national average producer price for non-Bartlett fresh pears for the 2017 marketing year (the most current year for NASS pear data) ranged from $748 to $788 per ton or $16.46 to $17.34 per 44-pound standard box. The Committee reported that for the same full year of records, total shipments of non-Bartlett pears for the fresh market from the production area were 11,875,202 boxes. Using the NASS price range from the 2017 marketing year, the total 2017 farm gate value of the fresh, non-Bartlett pear crop could therefore be estimated to be between $195,465,825 and $205,916,003. Dividing the crop value by the estimated number of growers (838) yields an estimated average receipt per producer of between $233,253 and $245,723, which is well below the SBA threshold for small producers.

USDA Market News reported a freight on board (FOB) average price (including palletizing and cooling) of $24.45 per 44-pound bag or equivalent of pears shipped in 2019. Multiplying this average FOB price by the Committee recorded total 2019 shipments of 13,811,500 44-pound bags of fresh pears results in an estimated gross value of fresh pear shipments of $337,691,175. Dividing this figure by the number of handlers (32) yields estimated average annual handler receipts of $10,552,849, which is below the SBA threshold for small agricultural service firms. Therefore, using the above data, the majority of producers and handlers of pears in the production area may be classified as small entities.

This final rule decreases from 14 pounds to 13 pounds, the maximum acceptable pressure for early season Anjou variety pears shipped throughout the Continental United States and to Canada, during the period August 15 to November 1. The maximum pressure for Anjou pear shipments to Mexico during this period remains unchanged at 14 pounds. In addition, this action removes the handling requirement exemption for early season Anjou pear shipments of 8,800 pounds or less. All other requirements in the Order's handling regulations remain unchanged. Authority for this action is contained in § 927.51.

This rule is expected to benefit the growers, handlers, and consumers of fresh pears. The Committee anticipates that this modification will lead to greater returns to handlers and growers by encouraging repeat consumption of fresh Anjou pears due to an improved eating experience.

Prior to arriving at its recommendation to modify the handling regulation, the Committee discussed various alternatives, including maintaining the current handling regulation, decreasing the acceptable pressure further, shortening the regulation period, and extending the requirement to shipments to Mexico. After several failed motions and much deliberation, the Committee determined that the recommended modification was the most beneficial option for the industry and consumers of pears.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by the OMB and assigned OMB No. 0581–0189, Fruit Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

The Committee's May 26, 2020, meeting was widely publicized throughout the pear industry. All interested persons were invited to attend the meeting and encouraged to participate in the deliberations on all issues. Like all Committee meetings, the meeting was a public meeting, and all entities, both large and small, were able to express their views on these issues.

A proposed rule concerning this action was published in the **Federal Register** on October 19, 2020 (85 FR 66283). Copies of the proposal were provided by the Committee to its members and handlers. The proposed rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending December 18, 2020, was provided to allow interested persons to

respond to the proposal. Two comments were received. One of the comments favored this action, and the other was not supportive of this rule.

The comment that supported the rule did not address the merits of this action. The comment not in favor of the rule challenged the assumption—that these changes affecting the ripening of Anjou pears would increase sales—as being without merit. This comment also included that the removal of the minimum quantity exemption for shipments will affect small farmers. The Committee-funded research showed that fruits at lower pressures were ripening properly; and following consumer preferences, would lead to a better eating experience, increased repeat purchases, and increased sales of Anjou pears. By removing the minimum quantity exemption for shipments, all Anjou pears are subjected to the new regulation which will improve grower returns including those to small farmers.

Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is amended as follows:

PART 927—PEARS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 927.316 is revised to read as follows:

§ 927.316 Handling regulation.

During the period August 15 through November 1, no person shall handle any fresh Beurre D'Anjou variety pears unless such pears meet the following requirements:

(a) Shipments of fresh Beurre D'Anjou variety pears throughout the Continental United States or to Canada shall have a certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core/pulp temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears have an average pressure test of 13 pounds or less.

(b) Shipments of fresh Beurre D'Anjou variety pears to Mexico shall have a certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core/pulp temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears have an average pressure test of 14 pounds or less.

(c) The handler shall submit, or cause to be submitted, a copy of the certificate issued on the shipment to the Fresh Pear Committee.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–05926 Filed 3–23–21; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2020–0274]

RIN 3150–AK57

List of Approved Spent Fuel Storage Casks: TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewed Amendment No. 17

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System listing within the ''List of approved spent fuel storage casks'' to include Renewed Amendment No. 17 to Certificate of Compliance No. 1004. Because this amendment is subsequent to the renewal of the TN Americas LLC Standardized NUHOMS® Horizontal Modular System Certificate of Compliance No. 1004 and, therefore, subject to the Aging Management Program requirements of the renewed certificate, it is referred to as ''Renewed Amendment No. 17.'' Renewed Amendment No. 17 revises the certificate of compliance technical specifications to add Heat Load Zoning Configurations 11–13 for the 61BTH Type 2 dry shielded canister and change the maximum assembly heat load from 1.2 kW to 1.7 kW. This amendment also makes minor clarifications to the certificate of compliance.

DATES: This direct final rule is effective June 7, 2021, unless significant adverse comments are received by April 23, 2021. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0274. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–1018; email: *Yen-Ju.Chen@nrc.gov* or Alexa Sieracki, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–7509; email: *Alexa.Sieracki@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0274 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0274.
- *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.
- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0274 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Renewed Amendment No. 17 to Certificate of Compliance No. 1004 and does not include other aspects of the TN Americas LLC, Standardized NUHOMS® Cask System design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing certificate of compliance that is expected to be non-controversial. The NRC has determined that, with the requested changes, adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on June 7, 2021. However, if the NRC receives any significant adverse comments on this direct final rule by April 23, 2021, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, certificate of compliance, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898) that approved the TN Americas LLC Standardized NUHOMS® System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1004.

IV. Discussion of Changes

On June 11, 2020, TN Americas LLC submitted a request to the NRC to amend Certificate of Compliance No. 1004. TN Americas LLC supplemented its request on September 11, 2020. Renewed Amendment No. 17 revises the certificate of compliance technical specifications to (1) add Heat Load

Zoning Configurations 11–13 for the 61BTH Type 2 dry shielded canister and (2) change the maximum assembly heat load from 1.2 kW to 1.7 kW. This amendment also includes minor clarification changes.

As documented in the preliminary safety evaluation report (ADAMS Accession No. ML20308A495), the NRC performed a safety evaluation of the proposed certificate of compliance amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Renewed Amendment No. 17 would remain well within the limits specified by 10 CFR part 20, ''Standards for Protection Against Radiation.'' Thus, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC staff determined that the amended TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System cask design, when used under the conditions specified in the certificate of compliance, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System casks that meet the criteria of Renewed Amendment No. 17 to Certificate of Compliance No. 1004.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System cask design listed in § 72.214, ''List of approved spent fuel storage casks.'' This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the ''Agreement State Program Policy Statement'' approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC—Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category. Although an Agreement State may not adopt program elements reserved to the NRC, and the Category ''NRC'' does not confer regulatory authority on the State, the State may wish to inform its licensees of certain requirements by means consistent with the particular State's administrative procedure laws.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

A. The Action

The action is to amend § 72.214 to revise the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System listing within the ''List of approved spent fuel storage casks'' to include Renewed Amendment No. 17 to Certificate of Compliance No. 1004.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the TN Americas LLC Standardized NUHOMS® System design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Renewed Amendment No. 17 revises the certificate of compliance technical specifications to (1) add Heat Load Zoning Configurations 11–13 for the 61BTH Type 2 dry shielded canister and (2) change the maximum assembly heat load from 1.2 kW to 1.7 kW. This amendment also includes minor clarifications to the certificate of compliance.

C. Environmental Impacts of the Action

On July 18,1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Renewed Amendment No. 17 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

The design of the cask would prevent loss of confinement, shielding, and criticality control in the event of each evaluated accident condition. If there is no loss of confinement, shielding, or criticality control, the environmental impacts resulting from an accident

would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Renewed Amendment No. 17 would remain well within the 10 CFR part 20 limits. Therefore, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Renewed Amendment No. 17 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System in accordance with the changes described in proposed Renewed Amendment No. 17 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Renewed Amendment No. 17 to Certificate of Compliance No. 1004 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled ''List of Approved Spent Fuel Storage Casks: TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewed Amendment No. 17'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and TN Americas LLC. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it (1) notifies the NRC in advance, (2) the spent fuel is stored under the conditions specified in the cask's certificate of compliance, and (3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On December 22, 1994 (59 FR 65898), the NRC issued an amendment to 10 CFR part 72 that approved the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System design by adding it to the list of NRC-approved cask designs in § 72.214.

On June 11, 2020, and as supplemented on September 11, 2020, TN Americas LLC submitted a request to amend the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Renewed Amendment No. 17 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System under the changes described in Renewed Amendment No. 17 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation report and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory; therefore, this action is recommended.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1004 for the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System, as currently listed in § 72.214. The revision consists of the changes in Renewed Amendment No. 17 previously described, as set forth in the revised certificate of compliance and technical specifications.

Renewed Amendment No. 17 to Certificate of Compliance No. 1004 for

the TN Americas LLC, Standardized NUHOMS® Horizontal Modular Storage System was initiated by TN Americas LLC and was not submitted in response to new NRC requirements, or an NRC request for amendment. Renewed Amendment No. 17 applies only to new casks fabricated and used under Renewed Amendment No. 17. These changes do not affect existing users of the TN Americas LLC, Standardized NUHOMS Horizontal Modular Storage System, and the current Renewed Amendment No. 16 continues to be effective for existing users. While current users of this storage system may comply with the new requirements in Renewed Amendment No. 17, this would be a voluntary decision on the part of current users.

For these reasons, Renewed Amendment No. 17 to Certificate of Compliance No. 1004 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./ **Federal Register** Citation
TN Americas LLC, Submittal of Application for Amendment 17 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 0.	ML20174A089 (package).
TN America, LLC—Response to Request for Additional Information—Application for Amendment 17 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 1 (Docket No. 72–1004. CAC No. 001028, EPID: L–2020–LLA–0128).	ML20255A206 (package).
User Need Memo for Rulemaking for the Standardized NUHOMS® System, Certificate of Compliance No. 1004, Renewed Amendment No. 17.	ML20308A485 (package).

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0274. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2020–0274); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995, superseded by Initial Certificate, Revision 1, on April 25, 2017, superseded by Renewed Initial Certificate, Revision 1, on December 11, 2017.

Renewed Initial Certificate, Revision 1, Effective Date: December 11, 2017.

Amendment Number 1 Effective Date: April 27, 2000, superseded by Amendment Number 1, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 1, Revision 1, on December 11, 2017.

Renewed Amendment Number 1, Revision 1, Effective Date: December 11, 2017.

Amendment Number 2 Effective Date: September 5, 2000, superseded by Amendment Number 2, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 2, Revision 1, on December 11, 2017.

Renewed Amendment Number 2, Revision 1, Effective Date: December 11, 2017.

Amendment Number 3 Effective Date: September 12, 2001, superseded by Amendment Number 3, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 3, Revision 1, on December 11, 2017.

Renewed Amendment Number 3, Revision 1, Effective Date: December 11, 2017.

Amendment Number 4 Effective Date: February 12, 2002, superseded by Amendment Number 4, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 4, Revision 1, on December 11, 2017.

Renewed Amendment Number 4, Revision 1, Effective Date: December 11, 2017.

Amendment Number 5 Effective Date: January 7, 2004, superseded by Amendment Number 5, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 5, Revision 1, on December 11, 2017.

Renewed Amendment Number 5, Revision 1, Effective Date: December 11, 2017.

Amendment Number 6 Effective Date: December 22, 2003, superseded by Amendment Number 6, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 6, Revision 1, on December 11, 2017.

Renewed Amendment Number 6, Revision 1, Effective Date: December 11, 2017.

Amendment Number 7 Effective Date: March 2, 2004, superseded by

Amendment Number 7, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 7, Revision 1, on December 11, 2017.

Renewed Amendment Number 7, Revision 1, Effective Date: December 11, 2017.

Amendment Number 8 Effective Date: December 5, 2005, superseded by Amendment Number 8, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 8, Revision 1, on December 11, 2017.

Renewed Amendment Number 8, Revision 1, Effective Date: December 11, 2017.

Amendment Number 9 Effective Date: April 17, 2007, superseded by Amendment Number 9, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 9, Revision 1, on December 11, 2017.

Renewed Amendment Number 9, Revision 1, Effective Date: December 11, 2017.

Amendment Number 10 Effective Date: August 24, 2009, superseded by Amendment Number 10, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 10, Revision 1, on December 11, 2017.

Renewed Amendment Number 10, Revision 1, Effective Date: December 11, 2017.

Amendment Number 11 Effective Date: January 7, 2014, superseded by Amendment Number 11, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 11, Revision 1, on December 11, 2017.

Renewed Amendment Number 11, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A043).

Amendment Number 12 Effective Date: Amendment not issued by the NRC.

Amendment Number 13 Effective Date: May 24, 2014, superseded by Amendment Number 13, Revision 1, on April 25, 2017, superseded by Renewed Amendment Number 13, Revision 1, on December 11, 2017.

Renewed Amendment Number 13, Revision 1, Effective Date: December 11, 2017, as corrected (ADAMS Accession No. ML18018A100).

Amendment Number 14 Effective Date: April 25, 2017, superseded by Renewed Amendment Number 14, on December 11, 2017.

Renewed Amendment Number 14 Effective Date: December 11, 2017.

Renewed Amendment Number 15 Effective Date: January 22, 2019.

Renewed Amendment Number 16 Effective Date: September 14, 2020.

Renewed Amendment Number 17 Effective Date: June 7, 2021.

SAR Submitted by: TN Americas LLC.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Renewed Certificate Expiration Date: January 23, 2055.

Model Number: NUHOMS®–24P, –24PHB, –24PTH, –32PT, –32PTH1, –37PTH, –52B, –61BT, –61BTH, and –69BTH.

* * * * *

Dated: March 9, 2021.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2021–06076 Filed 3–23–21; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 725

[NCUA–2021–0037]

RIN 3133–AF15

Central Liquidity Facility

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: In response to the enactment of the Consolidated Appropriations Act, 2021, (CAA) the NCUA Board (Board) is issuing this interim final rule to cohere the NCUA's regulations to the statutory changes made by the CAA. Specifically, the CAA extended several enhancements to the NCUA's Central Liquidity Facility (CLF or Facility), which were first enacted by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This rule amends the NCUA's CLF regulation to reflect these extensions. This rule also extends the withdrawal from CLF membership provisions that the Board included in the April 2020 interim final rule that made the aforementioned regulatory changes related to the CARES Act.

DATES: This rule is effective on March 24, 2021. The amendment to § 725.6 at instruction number 4 is effective March 24, 2021, until January 1, 2023. Comments must be received on or before May 24, 2021.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF15, by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (703) 518–6319. Include ''[Your Name]—Comments on Interim Final Rule: CLF 2021—NCUA–2021–0037'' in the transmittal.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public inspection: You may view all public comments on the Federal eRulemaking Portal at *http://www.regulations.gov,* as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518–6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Anthony Cappetta, CLF Vice President, Office of Examination and Insurance; or Justin M. Anderson, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314–3428. Anthony Cappetta can also be reached at (703) 518–1592, and Justin Anderson can be reached at (703) 518–6556.

SUPPLEMENTARY INFORMATION:

I. Background

The CARES Act made several changes to Title III of the Federal Credit Union Act (the FCU Act),[1] which governs the CLF.[2] On April 16, 2020, the Board approved an interim final rule to amend the NCUA's CLF regulation, Part 725.[3] This interim final rule made several changes to part 725, some of which effectuated or mirrored the changes made by the CARES Act. Other changes, made in the April interim final rule, were intended to make membership in the CLF more advantageous to credit unions.

The changes directly related to the CARES Act were scheduled to sunset in accordance with the same on December 31, 2020. As noted above, however, the CAA, among other things, extended the

[1] 12 U.S.C. 1795 *et. seq.*

[2] *Coronavirus Aid, Relief, and Economic Security Act,* Public Law 116–136, 134 Stat 281 (March 27, 2020).

[3] 85 FR 23731 (Apr. 29, 2020).

sunset date of the CLF enhancements in the CARES Act to December 31, 2021.[4] To provide clarity and transparency, the Board is issuing this interim final rule to amend its regulations to reflect this extension.

In addition, the Board notes that in response to the April interim final rule, the Board received five comments which supported the rule. The comments also requested legislative changes and/or changes outside the scope of the April interim final rule.

II. Amendments

The following is a section-by-section analysis of the changes in this interim final rule.

Part 725

A. Definitions

In accordance with the CARES Act, the Board amended the definition of ''Liquidity needs'' to remove the words ''primarily serving natural persons.'' This change mirrored the statutory change in the CARES Act and clarified that liquidity needs are not limited to only natural person credit unions, but may also include those of corporate credit unions or a corporate credit union group. This amendment was scheduled to sunset in accordance with the CARES Act on December 31, 2020. The CAA extended this provision in the CARES Act until December 31, 2021.[5] As such, the Board is clarifying that the regulatory definition of ''Liquidity needs'' to make it clear when the definition under the CARES Act applies and when such definition reverts back to the pre-CARES Act version.

B. Agent Membership

In accordance with the CARES Act, the Board amended the nature of the requirement for a corporate credit union or group of corporate credit unions to subscribe to the capital stock of the Facility in an amount equal to one-half of 1 percent of the paid-in and unimpaired capital and surplus of all of the corporate credit union's or corporate credit union group's natural person credit union members. This change, which mirrors the statutory change in the CARES Act, allows the Board, in its sole discretion, to determine which grouping of natural person member credit unions of the applying corporate credit union or corporate credit union group are considered covered by the Agent's membership in the Facility. In turn, this approved group is the basis for calculating the amount of Facility capital stock the corporate credit union or corporate credit union group is required to purchase. This amendment was scheduled to sunset in accordance with the CARES Act on December 31, 2020. The CAA extended this provision in the CARES Act until December 31, 2021.[6] As such, the Board is making a conforming date change to part 725 through this interim final rule.

Upon the sunset of the amendment made in the CARES Act, as extended by the CAA, any corporate credit union or corporate credit union group that became an agent member under this provision must, within one year from the sunset date, either:

1. Purchase Facility stock for all of its member credit unions; or

2. terminate its membership in the Facility.

The Board notes that these are the options that the Board included in the April interim final rule. Further, the Board is, as noted above, only changing the sunset date, and not making any substantive changes to this or other sections of part 725.

C. Agent Member Borrowing

To effectuate the intent of the CARES Act in a safe and sound manner, the Board, in the April interim final rule, made a clarifying amendment to § 725.4.[7] This amendment clarified that an agent member may borrow from the Facility for its own liquidity needs, but, to do so, such agent must first subscribe to the capital stock of the Facility in an amount equal to one-half of 1 percent of the Agent's own paid-in and unimpaired capital and surplus.[8] In addition, the Board amended § 725.17(b)(2) to clarify that an agent may apply for a Facility advance based on its own liquidity needs.

The Board notes that the foregoing amendments were scheduled to sunset in accordance with requirements of the CARES Act on December 31, 2020. The CAA extended the related provisions in the CARES Act until December 31, 2021.[9] As such, the Board is making a conforming date changes through this interim final rule.

The April interim final rule included language to clarify the ramifications of the sunset of this provision. Specifically, the April interim final rule provided that upon sunset of this provision, an agent must:

(1) Not request any additional Facility advances for its own liquidity needs; and

(2) continue to follow the terms of the Facility advance agreement entered into between the agent and the Facility.

The Board is not making any changes to the aforementioned provisions, which will still apply upon the sunset of the changes to these sections of part 725.

In addition, in the April 2020 interim final rule, the Board made cohering changes to §§ 725.17 and 725.18 to include the ability of an Agent to borrow for its own liquidity needs.[10] This rule makes technical changes to the two aforementioned sections to clarify that the references to an Agent borrowing for its own liquidity needs sunset on December 31, 2021.

D. Termination of Membership

In the April interim final rule, the Board amended the waiting periods for a credit union to terminate its membership in the Facility between the effective date of the interim final rule and January 1, 2022.[11] The amendments to this section of part 725 temporarily permitted a credit union, regardless of its percentage amount of stock subscription, to withdraw from membership in the Facility after notifying the NCUA Board in writing on the sooner of:

(A) Six months from the date of its written notice to the NCUA Board; or

(B) December 31, 2020.

Further, any credit union that remained a member after December 31, 2020, was permitted to withdraw from membership immediately upon notifying the Board in writing of its intent to do so. Per the April interim final rule, such immediate withdrawal period would expire on December 31, 2021. After December 31, 2021, the termination requirements in effect prior to the enactment of the CARES Act would be reinstated and apply to all members.[12]

The Board is making several conforming amendments to this section to address the extension of the CLF provisions in the CARES Act by the CAA. First, any credit union that joined the CLF between April 29, 2020 and December 31, 2020 may immediately withdraw from membership upon notifying the Board in writing of its intent to do so. Through this interim final rule, the Board is extending this

[4] *Consolidated Appropriations Act, 2021,* Public Law 116–260, 134 Stat 1182 (December 27, 2020).

[5] *Consolidated Appropriations Act, 2021,* Public Law 116–260, 134 Stat 1182, section 540(a) (December 27, 2020).

[6] *Id.*

[7] 85 FR 23731 (Apr. 29, 2020).

[8] A credit union is required to pay into the Facility one-half of the amount required by the regulations and to hold the other one-half in liquid assets on its balance sheet.

[9] *Consolidated Appropriations Act, 2021,* Public Law 116–260, 134 Stat 1182, section 540(a) (December 27, 2020).

[10] 85 FR 23731 (Apr. 29, 2020).

[11] *Id.*

[12] *Id.*

immediate withdrawal period to December 31, 2022.

Second, credit unions that join the CLF between January 1, 2021 and December 31, 2021, regardless of percentage amount of stock subscription, may withdraw from membership in the Facility after notifying the NCUA Board in writing on the sooner of:

(A) Six months from the date of its written notice to the NCUA Board; or

(B) December 31, 2021.

Any credit union that joins the Facility during the aforementioned period and remains a member after December 31, 2021, may immediately withdraw from membership in the Facility upon notifying the Board in writing of its intent to do so. Such immediate withdrawal period will expire on December 31, 2022. On January 1, 2023, the immediate withdrawal period will cease, and all members will be subject to the termination provisions in effect before April 29, 2020.

E. CARES Act Provisions Extended by the CAA But Not Included in This Interim Final Rule

The Board notes that the CARES Act included two additional amendments to the FCU Act that were not reflected in the April interim final rule. Like the other changes discussed above, the CAA also extended these amendments until December 31, 2021.[13] For the benefit and information of stakeholders, the Board briefly discusses these amendments below.

First, the CARES Act temporarily increased the multiplier from ''twelve times'' to ''sixteen times.'' This means that for every $1 of capital and surplus, the Facility may borrow $16. This provision was not previously codified in part 725, and therefore the Board is not making any regulatory amendment regarding this temporary statutory change.

Second, the CARES Act provided more clarity about the purposes for which the NCUA Board can approve liquidity-need requests by removing the phrase ''the Board shall not approve an application for credit the intent of which is to expand credit union portfolios.'' [14] This provision was not previously codified in part 725, and therefore the Board is not making any regulatory amendment regarding this temporary statutory change.

[13] *Consolidated Appropriations Act, 2021,* Public Law 116–260, 134 Stat 1182, section 540(a) (December 27, 2020).

[14] *See.* 12 U.S.C. 1795e(a)(1).

III. Regulatory Procedures

A. Administrative Procedure Act

The Board is issuing this interim final rule without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA). Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''

The Board believes that the public interest is best served by implementing the interim final rule immediately upon publication in the **Federal Register**. As discussed above, the Board notes the changes in this rule cohere the NCUA's regulations with statutory extensions recently enacted in the CAA. As such changes are clarifying in nature and will reduce any disruption caused by inconsistency in the NCUA's regulations, the Board believes it is has good cause to determine that ordinary notice and public procedure are impracticable and that moving expeditiously in the form of an interim final rule is in the best of interests of the public and the federally insured credit unions that serve that public.

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause. Because the rules relieve a restriction, the interim final rule is exempt from the APA's delayed effective date requirement. The reasons previously discussed for forgoing prior notice and comment would also separately justify this determination.

While the Board believes that there is good cause to issue the rule without advance notice and comment and with an immediate effective date, the Board is interested in the views of the public and requests comment on all aspects of the interim final rule.

B. Congressional Review Act

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule. If a rule is deemed a ''major rule'' by the Office of Management and Budget (OMB), the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

For the same reasons set forth above, the Board is adopting this interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. In light of current inconsistency between the NCUA's regulations and the Act, the Board believes that delaying the effective date of the rule would be contrary to the public interest for the same reasons discussed above.

As required by the Congressional Review Act, the Board will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review. The Board notes that OMB agreed that the April interim final rule was not major. As this interim final is similar in nature, the Board believe this rule is also not major for purposes of the Congressional Review Act.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a valid OMB control number.

In accordance with the PRA, the information collection requirements included in this interim final rule extension have been submitted to OMB for approval under control number 3133–0061.

D. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles.

This interim final rule does not have substantial 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. The NCUA has therefore determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

E. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule or a final rule pursuant to the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. For purposes of the RFA, the Board considers credit unions with assets less than $100 million to be small entities.

Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.[15] Accordingly, the NCUA is not required to conduct a regulatory flexibility analysis for the reasons stated above relating to the good cause exemption. Nevertheless, the Board welcomes comments on the effect this interim final rule may have on small entities.

List of Subjects in 12 CFR Part 725

Credit unions, Reporting and recordkeeping requirements.

[15] 5 U.S.C. 553(a).

By the NCUA Board on March 18, 2021.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed in the preamble, the Board is amending 12 CFR part 725 as follows:

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

■ 1. The authority citation for part 725 continues to read as follows:

Authority: 12 U.S.C. 1795f(a)(2).

■ 2. In § 725.2, revise paragraph (i) to read as follows:

§ 725.2 Definitions.

* * * * *

(i) *Liquidity needs* means:

(1) From April 29, 2020 to December 31, 2021, the needs of credit unions for:

(i) Short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

(ii) Seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

(iii) Protracted adjustment credit available in the event of unusual or emergency circumstances of a longer-term nature resulting from national, regional or local difficulties.

(2) After December 31, 2021, the needs of credit unions primarily serving natural persons for:

(i) Short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

(ii) Seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

(iii) Protracted adjustment credit available in the event of unusual or emergency circumstances of a longer-term nature resulting from national, regional or local difficulties.

* * * * *

■ 3. In § 725.4, revise paragraphs (a)(2)(ii) and (iii) to read as follows:

§ 725.4 Agent membership.

(a) * * *

(2) * * *

(ii) From April 29, 2020, until December 31, 2021, one-half of 1 percent of the paid-in and unimpaired capital and surplus (as determined in accordance with § 725.5(b) of this part) of such credit union members of the corporate credit union or corporate credit union group as the Board may determine in its sole discretion, except those which are Regular members of the Facility or which have access to the Facility through, and are included in the stock subscription of, another Agent (a natural person credit union which is a member of more than one Agent member of the Facility must designate through which Agent it will deal with the Facility, and the designated Agent will be responsible for including the capital and surplus of such credit union in the calculation of its stock subscription). Upon approval of the application, the Agent shall forward funds equal to one-half of this initial stock subscription to the Facility. A corporate credit union or corporate credit union group that became an Agent member of the Facility under this paragraph shall, after December 31, 2021, but before January 1, 2023, either:

(A) Purchase Facility stock in accordance with the terms of paragraph (a)(2)(i) of this section; or

(B) Terminate its membership in the facility.

(iii) From April 29, 2020, until December 31, 2021, if borrowing for its own liquidity needs, one-half of 1 percent of the Agent's own paid-in and unimpaired capital and surplus. Upon approval of the application, the Agent shall forward funds equal to one-half of this stock subscription to the Facility. This amount shall be in addition to the amounts required by paragraph (a)(2)(i) or (ii) of this section, if a corporate credit union or corporate credit union group joined the facility as an Agent and intends to borrow for its own liquidity needs. Any corporate credit union or corporate credit union group that received a Facility advance for its own liquidity need under the temporary requirements set forth in this paragraph must, as of January 1, 2022 and thereafter:

(A) Not request any additional Facility advances for its own liquidity needs; and

(B) Continue to follow the terms of the Facility advance agreement entered into between the Agent and the Facility.

* * * * *

§ 725.6 [Amended]

■ 4. In § 725.6, effective March 24, 2021, until January 1, 2023, paragraphs (a) and (b) are stayed.

■ 5. In § 725.6, revise paragraph (e) to read as follows:

§ 725.6 Termination of membership.

* * * * *

(e) The following requirements apply to a credit union's termination of membership in the Facility from April 29, 2020 until January 1, 2023:

(1) Any credit union, regardless of its amount of stock subscription, that became a member of the Facility between April 29, 2020, and December 31, 2020, may immediately terminate its membership until December 31, 2022.

(2) Any credit union regardless of its amount of stock subscription, that becomes a member between January 1, 2021 and December 31, 2021, may withdraw from membership in the Facility after notifying the NCUA Board in writing on the sooner of:

(A) Six months from the date of its written notice to the NCUA Board; or

(B) December 31, 2021.

(3) Any credit union that does not elect to withdraw from membership in the Facility during the time periods prescribed in paragraph (e)(2) of this section, may immediately withdraw from membership in the Facility after notifying the NCUA Board in writing of its intention to do so from January 1, 2022 to December 31, 2022. As of January 1, 2023, the requirements of paragraphs (a) and (b) of this section, as in effect on March 1, 2020, shall apply.

(4) The Facility will process requests under this paragraph (e) upon demand and deliver funds as soon as practicable, allowing for the time necessary for settlement and transfer of funds in these transactions.

■ 6. In § 725.17, revise paragraph (b)(2)(iv) to read as follows:

§ 725.17 Applications for extensions of credit.

* * * * *

(b) * * *

(2) * * *

(iv) For the period beginning April 29, 2020, and ending on December 31, 2021, the applicant Agent's own liquidity needs. After the aforementioned period, an Agent is prohibited from submitting an application for an extension for its own liquidity needs.

* * * * *

■ 7. In § 725.18, revise paragraphs (a) and (d) to read as follows:

§ 725.18 Creditworthiness.

(a) Prior to Facility approval of each application of a Regular member for a Facility advance or an Agent member for a Facility advance for such Agent member's own need (provided such Agent may submit an application under § 725.17(b)(2)(iv) of this part), the Facility shall consider the creditworthiness of such member.

* * * * *

(d) A credit union (whether a Regular member of the Facility, Agent member (provided such Agent may submit an application under § 725.17(b)(2)(iv) of this part), or a member natural person credit union) which does not meet the Facility's creditworthiness standards may be limited in or denied the use of advances for its liquidity needs.

[FR Doc. 2021–05953 Filed 3–23–21; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0785; Product Identifier 2020–NM–063–AD; Amendment 39–21477; AD 2021–06–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 747 series airplanes and Model 767 series airplanes. This AD was prompted by a report of an un-commanded fuel transfer between the main and center fuel tanks. This AD prohibits operation of an airplane with any inoperative refuel valve (fueling shut-off valve) failed in the open position. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 28, 2021.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0785; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Douglas Mansell, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98190; phone and fax: 206–231–3875; email: *douglas.e.mansell@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 747 series airplanes and Model 767 series airplanes. The NPRM published in the **Federal Register** on September 9, 2020 (85 FR 55622). The NPRM was prompted by a report of an un-commanded fuel transfer between the main and center fuel tanks. The NPRM proposed to prohibit operation of an airplane with any inoperative refuel valve (fueling shut-off valve) failed in the open position.

The FAA is issuing this AD to address multiple refuel valves failed in the ''open'' position via Master Minimum Equipment List (MMEL) dispatch allowance, which allows un-commanded fuel transfer between fuel tanks. This condition could result in a fuel exhaustion event.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment.

Support for the NPRM

United Airlines had no objection to the NPRM. Another commenter stated that the NPRM was justified.

Request To Identify Proposed AD as Interim Action

Boeing requested that the proposed AD be identified as interim action because it is working on an updated MMEL to provide modified dispatch relief.

The FAA agrees with the commenter's request for the reason provided by the commenter. The FAA has revised the preamble in this final rule to identify this AD as interim action.

Request To Clarify Certain Terminology

Boeing requested that throughout the proposed AD the word ''secured'' be changed to ''failed'' when referring to the fuel shutoff valves. The commenter explained that the Minimum Equipment List (MEL) does not direct operators to secure the fuel shutoff valve open; the MEL states that operators are allowed to operate (dispatch) an airplane with a

valve failed (inoperative) in the open position.

The FAA agrees with the commenter's request for the reasons provided by the commenter. The FAA has accordingly revised the description of the unsafe condition and AD requirements in the SUMMARY and Background sections of this final rule, and in paragraphs (e) and (g) of this AD.

Request for Clarification Regarding Revisions to MMEL Items for Model 747SP Series Airplanes

A commenter requested clarification regarding revisions to MMEL items for Model 747SP series airplanes. The commenter stated the company he is affiliated with operates two Model 747SP series airplanes and asked if the final instruction would require eliminating ATA 28–20 (2) through (6) from its MEL, or if those sections would be revised with different maintenance instructions, which would allow dispatching an airplane with only one inoperative refueling valve deactivated in the open position, or if there would be a revision to those sections with different maintenance instructions allowing dispatching an airplane with inoperative refueling valves deactivated in the closed position (for example, if the refueling valves could be manually opened on the ground for re-fueling and then closed for flight if only the valve's actuator is defective).

The FAA provides the following explanations to the commenter's questions. This AD eliminates the relief provided by the dispatch provisions of ATA 28–20 (2), (3), (4), (5), and (6) from the Boeing 747 B–747–100/200/300/SP SERIES MMEL. This AD therefore prohibits dispatch of an airplane with any of the subject refuel valves inoperative in the open position, regardless of the existence of any MMEL provisions. If the MMEL items are revised in the future, the FAA might issue global AMOCs to provide relief for operation under specified conditions. This AD does not change the MMEL dispatch provisions for refuel valves inoperative in the closed position.

Request To Reduce the Compliance Time

The Air Line Pilots Association, International (ALPA) requested that the compliance time specified in the proposed AD be reduced from 60 days after the effective date of the AD to 15 days. The commenter stated that operators have had sufficient time from the publication date of the proposed AD (September 9, 2020) until the publication date of the final rule to address the prohibition of dispatching airplanes with more than one affected refuel valve inoperative.

The FAA disagrees with the commenter's request. After considering all of the available information, the FAA determined that the compliance time, as proposed, represents an appropriate interval of time for operators to comply with the AD, and still maintain an adequate level of safety. In developing an appropriate compliance time, the FAA considered the safety implications of operating an airplane with any inoperative refuel valve. In addition, reducing the compliance time of the proposed AD would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for public comment, considering additional comments subsequently received, and eventually issuing a final rule. That procedure could add unwarranted time to the rulemaking process. In light of this, and in consideration of the amount of time that has already elapsed since issuance of the original notice, the FAA determined that further delay of this AD is not appropriate. However, if additional data are presented that would justify a shorter compliance time, the FAA may consider further rulemaking on this issue. The FAA has not revised this AD in regard to this issue.

Request To Include MMEL Item for Model 747–8 Passenger Airplanes

Boeing and AMES Sarl (CAMO) requested that MMEL Item 28–21–02–01A, ''Refuel Valves,'' which applies to passenger airplanes, be included in paragraph (h)(4) of the proposed AD. The commenters noted that in paragraph (h)(4) of the proposed AD, only MMEL Item 28–21–01–01A, ''Refuel Valves,'' is specified, and that MMEL item is applicable only to Model 747–8F airplanes, which are freighter airplanes.

The FAA agrees with the commenters' requests for the reasons provided by the commenters and has revised paragraph (h)(4) of this AD accordingly.

Request To Remove Reference to MMEL Items for Model 767–2C Series Airplanes

Boeing requested that MMEL items referring to Model 767–2C series airplanes be removed from paragraph (h)(6) of the proposed AD because an FAA-approved MMEL document does not exist for this model. The commenter explained that only a Dispatch Deviation Guide (DDG) has been issued for Model 767–2C series airplanes and that the MMEL items referenced in paragraphs (h)(6)(i) and (ii) of the proposed AD are found only in the DDG and are not public documents; therefore it is not appropriate to reference these MMEL items in the proposed AD.

The FAA agrees with the commenter's request for the reasons provided by the commenter. The FAA has removed paragraph (h)(6) of this AD because there is no published MMEL for Model 767–2C series airplanes.

Request To Remove References to Model KC–46A Airplanes

Boeing requested that all text referring to Model KC–46A airplanes be removed from the NPRM. The commenter explained that for type certification purposes, Model KC–46A airplanes are covered under the type certificate for Model 767–2C series airplanes.

The FAA agrees with the commenter's request for the reason provided by the commenter. As stated previously, paragraph (h)(6) of the proposed AD, which provided MMEL information for Model 767–2C airplanes, has been removed from this AD.

Request for Clarification of Affected Fuel Tanks in Paragraph (g) of the Proposed AD

Boeing requested that paragraph (g) of the proposed AD be revised to clarify which fuel tanks are affected. The commenter stated that the identified unsafe condition is not evident when an airplane is operating using the existing DDG and MMEL relief for fuel tanks with refuel valves that are isolated from the main manifold that provides fuel to the wing tanks. The commenter explained that the fuel tanks that are not affected include the auxiliary tanks and the horizontal stabilizer tank on Model 747 series airplanes and the body fuel tanks on Model 767–2C series airplanes.

The FAA agrees with the commenter's request. The FAA has determined that this clarification could reduce confusion among operators regarding which fuel tanks are affected by the unsafe condition identified in this AD. The FAA has revised this final rule to clarify that this AD prohibits operation of an airplane with any inoperative refuel valve (fueling shut-off valve) of ''the reserve tank (on Model 747 series airplanes), main tank, or center tank'' that has failed in the open position.

Request To Revise Paragraph (g) of the Proposed AD To Prohibit Dispatch if More Than One Refuel Valve Is Inoperative

United Parcel Service (UPS Airlines) requested that paragraph (g) of the proposed AD be revised to specify that dispatch of an airplane is allowed if there is only one inoperative refuel valve. The commenter agreed that if

multiple refuel valves were secured in the open position there could be an uncommanded fuel transfer between fuel tanks. The commenter explained that a review of the fuel control systems on its fleet revealed that the fuel transfer would occur only if two valves were open, each in a different tank. The commenter noted that if only one valve was secured (failed) open, fuel could enter the manifold but could not migrate into a different tank. The commenter stated that it had contacted Boeing regarding dispatch of an airplane with one refuel valve secured in the open position and that Boeing stated this provides an acceptable level of safety to the proposed AD. The commenter explained that Boeing is developing substantiating analysis to support dispatch of an airplane with one refuel valve secured in the open position for many of the affected airplane models.

In addition, the commenter requested that the repair category be specified as category B (three day deferral) because the replacement of a refuel valve, which involves fuel tank access and requires specialized training and additional time to properly vent the fuel tanks, would place an undue burden on operators when another acceptable alternative is available.

The FAA does not agree with the commenter's requests. The FAA has determined that the operational limitations imposed by this AD are warranted, and adequately address the unsafe condition. Boeing has not yet finalized or provided the FAA with its substantiating analysis to support dispatch of an airplane with one refuel valve secured in the open position. Boeing has indicated that in the future it might provide updates for the applicable DDG and MMEL for each affected airplane model to provide modified dispatch relief. The FAA has not revised this AD in regard to this issue.

Request To Revise Paragraph (h) of the Proposed AD To Refer to MEL Instead of MMEL

Boeing requested that the header for paragraph (h) in the proposed AD be changed from MMEL Items to MEL Items. The commenter also requested that paragraphs (h)(1) through (6) be revised to refer to MEL items instead of MMEL items. The commenter stated that these changes would provide clarification that MEL(s) would be updated and the wording would be consistent with that of similar ADs.

The FAA partially agrees with the commenter's requests. The FAA agrees with the commenter's statement that operators will need to update their MELs to comply with the change required by this AD. Because dispatch requirements have changed for the applicable airplane models, the FAA disagrees with removing the reference to the identified MMEL items because this AD does not mandate the actual change to the applicable MMEL. This AD identifies which FAA-approved MMEL items are affected. Operators consult the MMEL requirements when updating the operator's existing FAA-approved MEL. The FAA has revised paragraph (h) of this AD accordingly.

Request To Include Note 2 to Paragraph (h) of the Proposed AD

Boeing requested that Note 2 be added to paragraph (h) of the proposed AD stating that operators must not dispatch an airplane using MMEL Item 28–21–01 with any of the identified valves in the inoperative open condition. The commenter explained that this would prevent dispatch of an airplane with fueling shutoff valves in the inoperative open condition without requiring a reference to a specific chapter of the MMEL.

The FAA disagrees with the commenter's request. Not all affected airplanes have MMEL items in section 28–21. Further, the intent of the commenter's proposed text is adequately addressed in the provisions of paragraph (g) of this AD, which is unchanged from the proposed AD. The FAA has not changed this AD as a result of this comment.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

MMEL Revisions

This AD refers to items in Sections 28–20 and 28–21 of the MMEL; [1] those items may also be included in an operator's FAA-approved MEL. This AD prohibits operation of the airplane under conditions currently allowed by those items in the MMEL. The FAA plans to revise the MMEL to remove those items in a future revision; operators would then be required to also remove those items from their existing FAA-approved MEL.

Interim Action

The FAA considers this AD interim action. The manufacturer is currently developing an updated MMEL, with substantiation, that would allow limited relief for an inoperative open fuel shutoff valve and mitigate the unsafe condition. Once the updated MMEL is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 750 airplanes of U.S. registry.

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

Authority for This Rulemaking

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

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

[1] The MMEL items can be found in the applicable FAA-approved MMEL: Boeing 747 B–747–100/200/300/SP SERIES MMEL, Revision 35, dated April 25, 2014; Boeing 747 B–747–400 LCF MMEL, Revision 3, November 7, 2014; Boeing 747 B–747–400, B–747–400D, B–747–400F MMEL, Revision 32, dated December 27, 2018; Boeing 747–8 MMEL, Revision 7, dated August 25, 2017; and Boeing 767 MMEL, Revision 39, dated October 26, 2018; which can be found on the Flight Standards Information Management System (FSIMS) website, *https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel.*

unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–06–10 The Boeing Company: Amendment 39–21477; Docket No. FAA–2020–0785; Product Identifier 2020–NM–063–AD.

(a) Effective Date

This airworthiness directive (AD) is effective April 28, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

(1) Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, 747SP, –8F, and –8 series airplanes.

(2) Model 767–200, –300, –300F, –400ER, and –2C series airplanes.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of an un-commanded fuel transfer between the main and center fuel tanks. The FAA is issuing this AD to address multiple refuel valves failed in the ''open'' position via Master Minimum Equipment List (MMEL) dispatch allowance, which allows un-commanded fuel transfer between fuel tanks. This condition could result in a fuel exhaustion event.

(f) Compliance

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

(g) Conditions for Prohibited Operation

No later than 60 days after the effective date of this AD: Operation of an airplane with any inoperative refuel valve (fueling shut-off valve) of the reserve tank (on Model 747 series airplanes only), main tank, or center tank that has failed in the open position is prohibited.

(h) Minimum Equipment List (MEL) Items

The MMEL items specified in paragraphs (h)(1) through (5) of this AD are affected by this prohibition and therefore may affect the operator's FAA-approved MEL.

(1) For Model 747–100, –200, and –300 series airplanes: The following ''Pressure Fueling System'' items.

(i) MMEL Item 28–20 2), ''Main Tank 1 and 4 Refueling Valves.''

(ii) MMEL Item 28–20 3), ''Main Tank 2 and 3 Refueling Valves.''

(iii) MMEL Item 28–20 4), ''Center Tank Refueling Valves.''

(iv) MMEL Item 28–20 5), ''Reserve Tank 1 and 4 Refueling Valves.''

(v) MMEL Item 28–20 6), ''Reserve Tank 2 and 3 Refueling Valves.''

(2) For Model 747–400LCF series airplanes: MMEL Item 28–21–1 1), ''Refuel Valves,'' second dispatch case with refueling valves inoperative open.

(3) For Model 747–400 series airplanes: MMEL Item 28–21–1 1), ''Refuel Valves,'' first dispatch case with refueling valves inoperative open.

(4) For Model 747–8 series airplanes: The following ''Refuel Valves'' items.

(i) MMEL Item 28–21–01–01–01A, ''Refuel Valves.''

(ii) MMEL Item 28–21–01–02–01A, ''Refuel Valves.''

(5) For Model 767 series airplanes (except Model 767–2C airplanes, for which there is no published MMEL): MMEL Item 28–21–01–01B, ''Fuel Shutoff Valves.''

Note 1 to paragraph (h): The MMEL items specified in paragraph (h) of this AD can be found in the applicable FAA-approved MMEL: Boeing 747 B–747–100/200/300/SP SERIES MMEL, Revision 35, dated April 25, 2014; Boeing 747 B–747–400 LCF MMEL, Revision 3, November 7, 2014; Boeing 747 B–747–400, B–747–400D, B–747–400F MMEL, Revision 32, dated December 27, 2018; Boeing 747–8 MMEL, Revision 7, dated August 25, 2017; and Boeing 767 MMEL, Revision 39, dated October 26, 2018; which can be found on the Flight Standards Information Management System (FSIMS) website, *https://fsims.faa.gov/PICResults.aspx?mode=Publication&doctype=MMELByModel.*

(i) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Douglas Mansell, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98190; phone and fax: 206–231–3875; email: *douglas.e.mansell@faa.gov.*

(k) Material Incorporated by Reference

None.

Issued on March 12, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06023 Filed 3–23–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0194; Project Identifier MCAI–2020–01434–R; Amendment 39–21482; AD 2021–07–05]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. (Type Certificate Previously Held by Agusta S.p.A.) (Leonardo) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2007–26–52 which applied to certain Agusta S.p.A. (now Leonardo) Model A109C, A109E, and A109K2 helicopters. AD 2007–26–52 required inspecting for swelling, deformation, bonding separation, and for a crack on each main rotor blade (MRB) with a certain part-numbered tip cap installed, and removing the MRB from service before further flight if any of these conditions exist and exceed the prescribed limits. This AD retains all inspections for certain serial-numbered MRBs, but for MRBs with a certain tip cap installed, this AD requires dye-penetrant inspections rather than visual inspections. This AD was prompted by additional reports of in-flight loss of part of a tip cap. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective April 8, 2021.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of April 8, 2021.

The Director of the Federal Register approved the incorporation by reference of certain other documents listed in this AD as of January 7, 2002 (66 FR 60144, December 3, 2001).

The FAA must receive comments on this AD by May 10, 2021.

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

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

For Agusta and Leonardo Helicopters service information identified in this final rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0194.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0194; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone (206) 231–3500; email *fred.guerin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued Emergency AD 2007–26–52 on December 20, 2007 and published it as a Final rule; request for comments on May 9, 2008, as Amendment 39–15519 (73 FR 26316). AD 2007–26–52 applied to Agusta S.p.A. (now Leonardo) Model A109C, A109E, and A109K2 helicopters with an MRB part number (P/N) 709–0103–01-all dash numbers installed. AD 2007–26–52 required, for any MRB with a serial number (S/N) with a prefix of either ''EM-'' or ''A5-'', except a MRB with a tip cap P/N 709–0103–29–109, within 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 25 hours TIS:

- A tap inspection of the upper and lower sides of each tip cap and in the tip cap to blade bond area for bonding separation;
- A visual inspection of the upper and lower side of each blade tip cap for swelling or deformation; and
- A dye-penetrant inspection of the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack.

For any MRB with a tip cap P/N 709–0103–29–109 installed, the AD required visually inspecting for a crack on the leading edge at the welded bead (joint line of shells) using a 10x or higher power magnifying glass, and if there is damage other than a crack, inspecting the area using a dye-penetrant inspection method, within the following compliance times:

- For a tip cap P/N 709–0103–29–109 with 600 or more hours TIS, inspect within the next 5 hours TIS or 30 days, whichever occurs first, and thereafter at intervals not to exceed 50 hours TIS; or
- For a tip cap P/N 709–0103–29–109 with less than 600 hours TIS, inspect before reaching 600 hours TIS, and thereafter, at intervals not to exceed 50 hours TIS.

AD 2007–26–52 also required replacing the MRB if swelling, deformation, a crack, or bonding separation that exceeds the prescribed limits is found in an MRB with an affected prefix, except an MRB with a tip cap P/N 709–0103–29–109. The MRB must be replaced with an airworthy MRB before further flight. If a crack is found in a MRB with tip cap P/N 709–0103–29–109, then AD 2007–26–52 required replacing the MRB before further flight. The actions were required to be accomplished in accordance with the manufacturer's service information.

AD 2007–26–52 was prompted by EASA AD 2007–0306–E, dated December 14, 2007 (EASA AD 2007–0306–E). EASA, which is the Technical Agent for the Member States of the European Union, notified the FAA that an unsafe condition may exist on Agusta Model A109C, A109E, and A109K2 helicopters. EASA advises that an incident occurred in which a Model A109E helicopter lost part of the tip of the MRB due to fracture of the welded bead (joint line of shells). The manufacturer advised that the investigation relating to this tip cap failure was still ongoing.

Actions Since AD 2007–26–52 Was Issued

Since the FAA issued AD 2007–26–52, EASA issued AD 2020–0230, dated October 22, 2020 (EASA AD 2020–0230), which supersedes EASA AD 2007–0306–E, to correct an unsafe condition for Leonardo S.p.a. Helicopters, formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta

S.p.A., Model A109E, A109K2, and A109C helicopters, all serial numbers. EASA advises that recent occurrences of affected parts detachment have been reported. EASA advises that the visual inspection for MRBs with tip cap P/N 709–0103–29–109 installed is no longer acceptable to detect part cracking and that this condition, if not detected and corrected, could lead to further affected parts detachments, possibly resulting in reduced control of the helicopter.

Accordingly, EASA AD 2020–0230 replaces the requirements of EASA AD 2007–0306–E for MRBs with a tip cap P/N 709–0103–29–109 installed, by changing the visual inspections of affected parts to dye-penetrant inspections and requires, depending on findings, replacement.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of the same type designs.

Related Service Information Under 1 CFR Part 51

The FAA previously reviewed the following Agusta Alert Bollettino Tecnicos (BT), each Revision B and each dated December 19, 2000:

- No. 109–106 which applies to Model A109C helicopters;
- No. 109EP–1 which applies to Model A109E helicopters; and
- No. 109K–22 which applies to Model A109K2 helicopters.

These BTs specify procedures for inspecting the MRB tip cap for bonding separation and a crack; a tap inspection of the tip cap for bonding separation in the blade bond; and a dye-penetrant inspection of the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack.

The FAA reviewed the following Leonardo Helicopters Alert Service Bulletins (ASBs), each Revision A and each dated October 19, 2020:

- No. 109–125 which applies to Model A109C helicopters;
- No. 109EP–085 which applies to Model A109E helicopters; and
- No. 109K–048 which applies to Model A109K2 helicopters.

These ASBs specify dye-penetrant inspecting the tip cap P/N 709–0103–29–109 for cracks on the tip cap leading edge at the welded bead (joint line of shells) and removes the magnifying glass inspection that was specified in the original ASBs.

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

AD Requirements

This AD continues to require, for an MRB with a S/N that has a prefix of either ''EM-'' or ''A5-'', except an MRB with a tip cap P/N 709–0103–29–109 installed, within 10 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 25 hours TIS, tap inspecting each tip cap for bonding separation in specified areas; tap inspecting for bonding separation in the tip cap to blade bond area; visually inspecting the upper and lower sides of each blade tip cap for swelling or deformation; and dye-penetrant inspecting the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack. If there is any swelling, deformation, or crack, or bonding separation that exceeds allowable limits, removing the blade from service is required before further flight; if there is no swelling, deformation or crack, or if bonding separation does not exceed allowable limits, continuing the inspections is required.

For an MRB with a tip cap P/N 709–0103–29–109 installed, this AD now requires, for each tip cap with less than 600 hours TIS, before reaching 600 hours TIS, and thereafter, at intervals not to exceed 50 hours TIS, or for each tip cap with 600 or more hours TIS, within the next 5 hours TIS or 30 days after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 50 hours TIS, dye-penetrant inspecting the welded bead on the tip cap leading edge (joint line between the two metal shells) for a crack and removing the tip cap from service if there is a crack.

This AD also prohibits installing an MRB with tip cap P/N 709–0103–29–109 on any helicopter unless it has been inspected in accordance with the inspection requirements of this AD.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because inspections for certain MRBs must be accomplished within 5 or 10 hours TIS after the effective date of this AD, depending on the MRB, and corrective action is required before further flight. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0194; Project Identifier MCAI–2020–01434–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

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

that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Fred Guerin, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone (206) 231–3500; email *fred.guerin@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 72 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Each tap inspection will take about 3 work-hours and there are no parts costs for an estimated cost of about $255 per helicopter per inspection cycle.

Each visual inspection will take about 1 work-hour and there are no parts cost for an estimated cost of about $85 per helicopter per inspection cycle.

Each dye-penetrant inspection will take about 3 work-hours and parts will cost about $100 for an estimated cost of about $355 per helicopter per inspection cycle.

Replacing a blade, if required, will take about 2 work-hours and parts will cost about $98,435 per blade, for an estimated cost of about $98,605 per replacement.

Replacing a tip cap, if required, will take about 30 work-hours and parts will cost about $3,034 per tip cap, for an estimated cost of about $5,584 per replacement.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2007–26–52, Amendment 39–15519 (73 FR 26316, May 9, 2008); and

■ b. Adding the following new AD:

2021–07–05 Leonardo S.p.a. (Type Certificate Previously Held by Agusta S.p.A.) (Leonardo): Amendment 39–21482; Docket No. FAA–2021–0194; Project Identifier MCAI–2020–01434–R.

(a) Effective Date

This airworthiness directive (AD) is effective April 8, 2021.

(b) Affected ADs

This AD replaces AD 2007–26–52, Amendment 39–15519 (73 FR 26316, May 9, 2008).

(c) Applicability

This AD applies to Leonardo Model A109C, A109E, and A109K2 helicopters, certificated in any category, with a main rotor blade (MRB) part number (P/N) 709–0103–01-all dash numbers installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6210, Main Rotor Blades.

(e) Unsafe Condition

This AD was prompted by reports of the in-flight loss of tip caps. The FAA is issuing this AD to prevent loss of a tip cap from an MRB. The unsafe condition, if not addressed, could result in an increase in MRB vibration and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) For an MRB with a serial number that has a prefix of either ''EM-'' or ''A5-'', except an MRB with a tip cap P/N 709–0103–29–109 installed, within 10 hours time-in-service (TIS) after the effective date of this AD, unless accomplished previously, and thereafter at intervals not to exceed 25 hours TIS:

(i) Tap inspect the upper and lower sides of each tip cap for bonding separation between the metal shells and the honeycomb core using a steel hammer P/N 109–3101–58–1 or a coin (quarter) in the area indicated as honeycomb core on Figure 1 of Agusta Alert Bollettino Tecnico (BT) No. 109–106, BT No. 109K–22, or BT No. 109EP–1, each Revision B and each dated December 19, 2000 (BT No. 109–106, BT No. 109K–22, or BT No. 109EP–1), as applicable to your helicopter model. Also, tap inspect for bonding separation in the tip cap to blade bond area (no bonding voids are permitted in this area).

(ii) Visually inspect the upper and lower sides of each blade tip cap for swelling or deformation.

(iii) Dye-penetrant inspect the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack in accordance with the Compliance Instructions, steps 3. through 3.2.6., of BT No. 109–106, BT No. 109K–22, or BT No. 109EP–1, as applicable to your helicopter model.

(iv) If there is any swelling, deformation, or crack; or bonding separation that exceeds

allowable limits, remove the blade from service before further flight.

(v) If there is no swelling, deformation or crack; or if bonding separation does not exceed allowable limits, continue to perform the inspections required by this AD.

(2) For an MRB with a tip cap P/N 709–0103–29–109 installed, perform the following at the specified intervals:

(i) For each tip cap with less than 600 hours TIS, before reaching 600 hours TIS, and thereafter, at intervals not to exceed 50 hours TIS or

(ii) For each tip cap with 600 or more hours TIS, within the next 5 hours TIS or 30 days after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 50 hours TIS.

(A) Dye-penetrant inspect the welded bead on the tip cap leading edge (joint line between the two metal shells) for a crack in accordance with the Accomplishment Instructions, steps 3.1 through 3.6, of Leonardo Helicopters Alert Service Bulletin (ASB) No. 109–125, ASB No. 109EP–085, or ASB No. 109K–048, each at Revision A and each dated October 19, 2020, as applicable your helicopter model.

(B) If there is a crack, remove the tip cap from service before further flight.

(3) As of the effective date of this AD, do not install any MRB with tip cap P/N 709–0103–29–109 on any helicopter unless it has been inspected in accordance with the inspection requirements of this AD.

(h) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished provided that:

(1) No passengers are onboard;

(2) The time to fly to the location does not exceed 10 hours TIS; and

(3) The airspeed does not exceed 70 knots indicated air speed (KIAS).

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Fred Guerin, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone (206) 231–3500; email *fred.guerin@faa.gov.*

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2020–0230, dated October 22, 2020. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–0194.

(k) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on April 8, 2021.

(i) Leonardo Helicopters Alert Service Bulletin No. 109–125, Revision A, dated October 19, 2020.

(ii) Leonardo Helicopters Alert Service Bulletin No. 109EP–085, Revision A, dated October 19, 2020.

(iii) Leonardo Helicopters Alert Service Bulletin No. 109K–048, Revision A, dated October 19, 2020.

(4) The following service information was approved for IBR on January 7, 2002 (66 FR 60144, December 3, 2001).

(i) Agusta Alert Bollettino Tecnico No. 109–106, Revision B, dated December 19, 2000.

(ii) Agusta Alert Bollettino Tecnico No. 109EP–1, Revision B, dated December 19, 2000.

(iii) Agusta Alert Bollettino Tecnico No. 109K–22, Revision B, dated December 9, 2000.

(5) For Leonardo Helicopters and Agusta service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

(6) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 19, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06200 Filed 3–22–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31360; Amdt. No. 3948]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective March 24, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 24, 2021.

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

For Examination

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

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

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

4. The National Archives and Records Administration (NARA).

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

Availability

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on March 5, 2021.

Wade Terrell,

Aviation Safety Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Apr–21 ...	IA	Marshalltown	Marshalltown Muni	0/0038	12/21/20	VOR RWY 31, Amdt 2A.
22–Apr–21 ...	IA	Marshalltown	Marshalltown Muni	0/0039	12/21/20	VOR RWY 13, Amdt 2A.
22–Apr–21 ...	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6207	12/8/20	RNAV (GPS) RWY 16L, Amdt 2B.
22–Apr–21 ...	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6217	12/8/20	RNAV (GPS) RWY 16R, Amdt 2B.
22–Apr–21 ...	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6231	12/8/20	RNAV (GPS) RWY 34R, Amdt 2B.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6232	12/8/20	RNAV (GPS) RWY 34L, Amdt 3B.
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6237	12/8/20	RADAR–1, Amdt 12.
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6238	12/8/20	ILS OR LOC RWY 16L, Amdt 8B.
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6239	12/8/20	VOR/DME OR TACAN RWY 16L, Orig-A.
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6241	12/8/20	VOR/DME OR TACAN RWY 16R, Orig-A.
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6242	12/8/20	VOR/DME OR TACAN RWY 34L, Orig-A.
22–Apr–21	MS	Jackson	Jackson-Medgar Wiley Evers Intl.	0/6257	12/8/20	ILS OR LOC RWY 34L, Amdt 6C.
22–Apr–21	VA	Martinsville	Blue Ridge	0/6341	12/7/20	RNAV (GPS) RWY 31, Amdt 3.
22–Apr–21	MT	Helena	Helena Rgnl	0/6933	12/30/20	RNAV (GPS) X RWY 27, Amdt 1C.
22–Apr–21	MT	Helena	Helena Rgnl	0/6934	12/30/20	LOC/DME BC–C, Amdt 5A.
22–Apr–21	MT	Helena	Helena Rgnl	0/6936	12/30/20	ILS OR LOC Z RWY 27, Amdt 2A.
22–Apr–21	OK	Medford	Medford Muni	0/7900	12/30/20	RNAV (GPS) RWY 35, Orig-B.
22–Apr–21	OK	Medford	Medford Muni	0/7901	12/30/20	RNAV (GPS) RWY 17, Orig-A.
22–Apr–21	OH	Akron	Akron Fulton Intl	0/8976	12/30/20	LOC RWY 25, Amdt 14A.
22–Apr–21	OH	Akron	Akron Fulton Intl	0/8977	12/30/20	NDB RWY 25, Amdt 15B.
22–Apr–21	OH	Akron	Akron Fulton Intl	0/8979	12/30/20	RNAV (GPS) RWY 25, Orig-B.
22–Apr–21	MO	Gideon	Gideon Meml	1/0607	2/8/21	RNAV (GPS) RWY 33, Orig-A.
22–Apr–21	MO	Gideon	Gideon Meml	1/0608	2/8/21	RNAV (GPS) RWY 15, Orig-A.
2–Apr–21	WV	Charleston	Yeager	1/0749	2/5/21	ILS OR LOC RWY 5, Orig.
22–Apr–21	TX	Center	Center Muni	1/1436	2/8/21	RNAV (GPS) RWY 35, Orig-B.
22–Apr–21	TX	Center	Center Muni	1/1437	2/8/21	RNAV (GPS) RWY 17, Orig-C.
22–Apr–21	TX	Henderson	Rusk County	1/1587	1/27/21	VOR/DME–A, Amdt 3B.
22–Apr–21	GA	Toccoa	Toccoa Rg Letourneau Fld	1/1862	1/11/21	RNAV (GPS) RWY 21, Amdt 2.
22–Apr–21	CO	Steamboat Springs	Steamboat Springs/Bob Adams Fld.	1/1865	1/14/21	VOR/DME–C, Amdt 1C.
22–Apr–21	MA	Northampton	Northampton	1/1884	1/11/21	RNAV (GPS) RWY 14, Orig-A.
22–Apr–21	MA	Northampton	Northampton	1/1885	1/11/21	VOR/DME–B, Amdt 5A.
22–Apr–21	CA	Crescent City	Jack Mc Namara Field	1/1981	1/14/21	RNAV (GPS) RWY 36, Amdt 1.
22–Apr–21	PA	Philipsburg	Mid-State	1/2045	2/24/21	RNAV (GPS) RWY 16, Orig-D.
22–Apr–21	TX	Uvalde	Garner Fld	1/2055	2/11/21	RNAV (GPS) RWY 33, Orig-A.
22–Apr–21	TX	Uvalde	Garner Fld	1/2057	2/11/21	NDB RWY 33, Amdt 2.
22–Apr–21	RI	Westerly	Westerly State	1/2432	2/25/21	RNAV GPS RWY 7, Orig-B.
22–Apr–21	GA	Atlanta	Covington Muni	1/2761	2/22/21	NDB RWY 28, Amdt 3B.
22–Apr–21	KY	Hartford	Ohio County	1/2796	1/21/21	RNAV (GPS) RWY 21, Orig-D.
22–Apr–21	KY	Hartford	Ohio County	1/2797	1/21/21	RNAV (GPS) RWY 3, Orig-D.
22–Apr–21	MO	Bolivar	Bolivar Muni	1/3140	1/22/21	RNAV (GPS) RWY 36, Orig-A.
22–Apr–21	MO	Bolivar	Bolivar Muni	1/3141	1/22/21	RNAV (GPS) RWY 18, Orig.
22–Apr–21	TX	Lubbock	Lubbock Preston Smith Intl	1/3930	1/15/21	RNAV (GPS) Y RWY 17R, Amdt 2C.
22–Apr–21	IA	Keokuk	Keokuk Muni	1/4082	2/17/21	RNAV (GPS) RWY 32, Orig-B.
22–Apr–21	IA	Keokuk	Keokuk Muni	1/4083	2/17/21	RNAV (GPS) RWY 26, Orig-B.
22–Apr–21	IA	Keokuk	Keokuk Muni	1/4086	2/17/21	RNAV (GPS) RWY 14, Orig-C.
22–Apr–21	IA	Keokuk	Keokuk Muni	1/4088	2/17/21	RNAV (GPS) RWY 8, Orig-B.
22–Apr–21	IA	Keokuk	Keokuk Muni	1/4090	2/17/21	ILS OR LOC/DME RWY 26, Orig-D.
22–Apr–21	MO	Harrisonville	Lawrence Smith Meml	1/4305	1/22/21	RNAV (GPS) RWY 35, Orig-B.
22–Apr–21	MO	Harrisonville	Lawrence Smith Meml	1/4306	1/22/21	RNAV (GPS) RWY 17, Orig-A.
22–Apr–21	IL	Chicago	Chicago O'Hare Intl	1/5384	1/20/21	RNAV (GPS) Y RWY 10R, Orig-A.
22–Apr–21	IL	Chicago	Chicago O'Hare Intl	1/5385	1/20/21	RNAV (GPS) PRM Y RWY 10R, Orig-A.
22–Apr–21	IL	Chicago	Chicago O'Hare Intl	1/5386	1/20/21	ILS Y OR LOC Y RWY 10R, Orig-C.
22–Apr–21	IL	Chicago	Chicago O'Hare Intl	1/5387	1/20/21	ILS PRM Y RWY 10R (CLOSE PARALLEL), Orig-C.
22–Apr–21	IL	Sparta	Sparta Community-Hunter Fld.	1/5602	2/25/21	RNAV (GPS) RWY 18, Amdt 1B.
22–Apr–21	IL	Sparta	Sparta Community-Hunter Fld.	1/5603	2/25/21	RNAV (GPS) RWY 36, Orig-A.
22–Apr–21	PA	Reedsville	Mifflin County	1/5610	2/25/21	LOC RWY 6, Amdt 8C.
22–Apr–21	PA	Reedsville	Mifflin County	1/5611	2/25/21	RNAV (GPS) RWY 6, Orig-B.
22–Apr–21	PA	Reedsville	Mifflin County	1/5612	2/25/21	RNAV (GPS) RWY 24, Orig-C.
22–Apr–21	OR	Pendleton	Eastern Oregon Rgnl At Pendleton.	1/5636	1/26/21	RNAV (GPS) RWY 29, Orig-A.
22–Apr–21	CA	Sacramento	Sacramento Exec	1/6082	2/2/21	VOR RWY 2, Amdt 10E.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Apr–21 ...	CA	Sacramento	Sacramento Exec	1/6083	2/2/21	ILS OR LOC RWY 2, Amdt 24E.
22–Apr–21 ...	MD	Fort Meade(Odenton)	Tipton	1/6445	2/24/21	RNAV (GPS) RWY 10, Amdt 1B.
22–Apr–21 ...	MD	Fort Meade(Odenton)	Tipton	1/6446	2/24/21	RNAV (GPS) RWY 28, Amdt 1B.
22–Apr–21 ...	AK	Adak Island	Adak	1/6455	2/23/21	RNAV (GPS) RWY 23, Orig-A.
22–Apr–21 ...	TX	Vernon	Wilbarger County	1/6456	2/24/21	RNAV (GPS) RWY 2, Orig.
22–Apr–21 ...	TX	Vernon	Wilbarger County	1/6457	2/24/21	RNAV (GPS) RWY 20, Orig.
22–Apr–21 ...	TX	Wink	Winkler County	1/6460	2/24/21	RNAV (GPS) RWY 31, Amdt 1A.
22–Apr–21 ...	TX	Wink	Winkler County	1/6469	2/24/21	RNAV (GPS) RWY 13, Amdt 1A.
22–Apr–21 ...	TX	Palacios	Palacios Muni	1/6476	2/24/21	RNAV (GPS) RWY 13, Orig-C.
22–Apr–21 ...	VA	Staunton/Waynesboro/Harrisonburg.	Shenandoah Valley Rgnl	1/6478	2/23/21	RNAV (GPS) RWY 5, Orig.
22–Apr–21 ...	VA	Staunton/Waynesboro/Harrisonburg.	Shenandoah Valley Rgnl	1/6479	2/23/21	RNAV (GPS) RWY 23, Orig.
22–Apr–21 ...	VA	Staunton/Waynesboro/Harrisonburg.	Shenandoah Valley Rgnl	1/6480	2/23/21	NDB RWY 5, Amdt 10.
22–Apr–21 ...	VA	Staunton/Waynesboro/Harrisonburg.	Shenandoah Valley Rgnl	1/6481	2/23/21	ILS OR LOC RWY 5, Amdt 9.
22–Apr–21 ...	TX	Palacios	Palacios Muni	1/6490	2/24/21	VOR RWY 13, Amdt 10F.
22–Apr–21 ...	TX	Edinburg	South Texas Intl At Edinburg	1/6564	1/26/21	RNAV (GPS) RWY 14, Orig.
22–Apr–21 ...	TX	Edinburg	South Texas Intl At Edinburg	1/6566	1/26/21	RNAV (GPS) RWY 32, Orig.
22–Apr–21 ...	TX	Madisonville	Madisonville Muni	1/6568	1/26/21	VOR/DME RWY 18, Amdt 2B.
22–Apr–21 ...	MT	Helena	Helena Rgnl	1/6593	1/26/21	RNAV (GPS) Y RWY 9, Amdt 1B.
22–Apr–21 ...	TX	Amarillo	Rick Husband Amarillo Intl ...	1/6703	1/29/21	RADAR 1, Amdt 16A.
22–Apr–21 ...	TX	Henderson	Rusk County	1/7186	2/2/21	RNAV (GPS) RWY 17, Amdt 1.
22–Apr–21 ...	NJ	Newark	Newark Liberty Intl	1/7776	2/17/21	ILS OR LOC RWY 4R, ILS RWY 4R (CAT II AND III), Amdt 13B.
22–Apr–21 ...	NJ	Newark	Newark Liberty Intl	1/7777	2/17/21	ILS OR LOC RWY 22L, ILS RWY 22L (SA CAT I), ILS RWY 22L (CAT II AND III), Amdt 13D.
22–Apr–21 ...	KS	Wichita	Wichita Dwight D Eisenhower National.	1/8084	3/1/21	ILS OR LOC RWY 1R, Amdt 17C.
22–Apr–21 ...	AR	Newport	Newport Rgnl	1/8232	3/1/21	VOR RWY 18, Amdt 4B.
22–Apr–21 ...	KS	Belleville	Belleville Muni	1/8987	2/2/21	VOR–A, Amdt 3D.
22–Apr–21 ...	TN	Morristown	Moore-Murrell	1/9040	3/2/21	RNAV (GPS) RWY 23, Orig-D.
22–Apr–21 ...	TN	Morristown	Moore-Murrell	1/9041	3/2/21	NDB RWY 5, Amdt 5C.
22–Apr–21 ...	TN	Morristown	Moore-Murrell	1/9042	3/2/21	SDF RWY 5, Amdt 5C.
22–Apr–21 ...	TN	Morristown	Moore-Murrell	1/9043	3/2/21	RNAV (GPS) RWY 5, Orig-C.
22–Apr–21 ...	OH	Bellefontaine	Bellefontaine Rgnl	1/9053	3/2/21	VOR/DME RWY 25, Orig-B.
22–Apr–21 ...	OH	Bellefontaine	Bellefontaine Rgnl	1/9055	3/2/21	VOR RWY 7, Orig-C.
22–Apr–21 ...	OH	Bellefontaine	Bellefontaine Rgnl	1/9056	3/2/21	RNAV (GPS) RWY 25, Amdt 1A.
22–Apr–21 ...	OH	Bellefontaine	Bellefontaine Rgnl	1/9057	3/2/21	RNAV (GPS) RWY 7, Amdt 1A.
22–Apr–21 ...	NC	Elizabethtown	Curtis L Brown Jr Fld	1/9085	3/2/21	VOR/DME RWY 15, Amdt 2.
22–Apr–21 ...	NC	Elizabethtown	Curtis L Brown Jr Fld	1/9087	3/2/21	RNAV GPS RWY 15, Orig.
22–Apr–21 ...	NC	Elizabethtown	Curtis L Brown Jr Fld	1/9088	3/2/21	RNAV GPS RWY 33, Orig-A.
22–Apr–21 ...	WI	Eagle River	Eagle River Union	1/9105	3/2/21	VOR/DME RWY 4, Amdt 1B.
22–Apr–21 ...	WI	Eagle River	Eagle River Union	1/9106	3/2/21	RNAV (GPS) RWY 22, Orig-B.
22–Apr–21 ...	WI	Eagle River	Eagle River Union	1/9107	3/2/21	RNAV (GPS) RWY 4, Orig-A.
22–Apr–21 ...	WI	Eagle River	Eagle River Union	1/9108	3/2/21	LOC/DME RWY 4, Orig-B.
22–Apr–21 ...	CO	Gunnison	Gunnison-Crested Butte Rgnl.	1/9142	3/2/21	GPS–B, Orig-A.
22–Apr–21 ...	CO	Gunnison	Gunnison-Crested Butte Rgnl.	1/9143	3/2/21	ILS OR LOC RWY 6, Amdt 5B.
22–Apr–21 ...	CO	Gunnison	Gunnison-Crested Butte Rgnl.	1/9145	3/2/21	VOR OR GPS–A, Amdt 7C.
22–Apr–21 ...	CA	Lompoc	Lompoc	1/9554	3/2/21	RNAV (GPS) RWY 25, Amdt 1B.
22–Apr–21 ...	CA	Lompoc	Lompoc	1/9555	3/2/21	VOR/DME–A, Amdt 5A.
22–Apr–21 ...	AK	Adak Island	Adak	1/9716	3/3/21	NDB/DME RWY 23, Orig-A.
22–Apr–21 ...	FL	Apopka	Orlando Apopka	1/9948	2/11/21	RNAV (GPS)-B, Orig.
22–Apr–21 ...	FL	Apopka	Orlando Apopka	1/9949	2/11/21	RNAV (GPS)-A, Orig.

[FR Doc. 2021–06055 Filed 3–23–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31359; Amdt. No. 3947]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective March 24, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 24, 2021.

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

For Examination

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

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

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

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

Availability

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

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

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

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

Availability and Summary of Material Incorporated by Reference

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

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

The Rule

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

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

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

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on March 5, 2021.

Wade Terrell Aviation Safety,

Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 22 April 2021

Courtland, AL, Courtland, VOR RWY 13, Amdt 1B, CANCELLED
Sacramento, CA, KMHR, RNAV (GPS) RWY 22R, Orig
San Diego, CA, KMYF, ILS OR LOC RWY 28R, Amdt 4D
Orlando, FL, KMCO, ILS OR LOC RWY 18R, Amdt 11
Orlando, FL, KMCO, ILS OR LOC RWY 35R, ILS RWY 35R (SA CAT I), ILS RWY 35R (CAT II), ILS RWY 35R (CAT III), Amdt 5
Orlando, FL, KMCO, RNAV (GPS) RWY 18R, Amdt 2
Orlando, FL, KMCO, RNAV (GPS) RWY 35R, Amdt 2
Orlando, FL, KMCO, RNAV (GPS) RWY 36L, Amdt 3
Orlando, FL, KMCO, VOR/DME RWY 18L, Amdt 5F, CANCELLED
Orlando, FL, KMCO, VOR/DME RWY 18R, Amdt 5F, CANCELLED
Atlanta, GA, KPUJ, ILS OR LOC RWY 31, Amdt 1
Atlanta, GA, KPUJ, RNAV (GPS) RWY 13, Amdt 2
Atlanta, GA, KPUJ, RNAV (GPS) RWY 31, Amdt 1
Atlanta, GA, KFTY, RNAV (GPS) RWY 26, Amdt 2
Evansville, IN, Evansville Rgnl, Takeoff Minimums and Obstacle DP, Amdt 9A
Paducah, KY, KPAH, ILS OR LOC RWY 5, Amdt 10E
Williamsburg, KY, Williamsburg-Whitley County, RNAV (GPS) RWY 20, Amdt 1C
Beverly, MA, KBVY, LOC RWY 16, Amdt 8
Beverly, MA, Beverly Rgnl, VOR RWY 16, Amdt 5E, CANCELLED
Fitchburg, MA, KFIT, RNAV (GPS) RWY 14, Amdt 1
Fitchburg, MA, KFIT, RNAV (GPS) RWY 20, Orig-D, CANCELLED
Fitchburg, MA, KFIT, RNAV (GPS) RWY 32, Amdt 1
Stow, MA, 6B6, VOR/DME RWY 21, Amdt 3E, CANCELLED
Pinecreek, MN, Piney Pinecreek Border, NDB RWY 33, Amdt 1A, CANCELLED
Pinecreek, MN, 48Y, RNAV (GPS) RWY 33, Orig-C
Helena, MT, KHLN, ILS OR LOC Y RWY 27, Amdt 3D
Helena, MT, KHLN, VOR–A, Amdt 15C
Helena, MT, KHLN, VOR–B, Amdt 7C
Alamogordo, NM, Alamogordo-White Sands Rgnl, Corona One Graphic DP
Alamogordo, NM, Alamogordo-White Sands Rgnl, Corona Two Graphic DP, CANCELLED
Alamogordo, NM, Alamogordo-White Sands Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Ogdensburg, NY, KOGS, RNAV (GPS) RWY 27, Amdt 2
Plattsburgh, NY, Plattsburgh Intl, ILS OR LOC RWY 35, Amdt 2A
Wharton, TX, KARM, NDB RWY 14, Orig-A, CANCELLED
Wharton, TX, KARM, NDB RWY 32, Orig-A, CANCELLED
Land O'Lakes, WI, KLNL, RNAV (GPS) RWY 14, Orig-C
Land O'Lakes, WI, KLNL, RNAV (GPS) RWY 32, Orig-C

[FR Doc. 2021–06054 Filed 3–23–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2021–0117]

Special Local Regulations; Motus Myrtle Beach Triathlon, Myrtle Beach, SC

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

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Motus Myrtle Beach Triathlon on April 11, 2021 for 8:00 a.m. to 9:00 a.m. This action is necessary to ensure the safety of life on navigable waters of the United States during the Motus Myrtle Beach Triathlon Swim event. Our regulation for marine events within the Seventh Coast Guard District identifies the regulated area for this event in Myrtle Beach, SC. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the designated area unless authorized by the Captain of the Port Charleston (COTP) or a designated representative.

DATES: The regulations in 33 CFR 100.704, Table 1 to § 100.704, Item No. 3, will be enforced from 8:00 a.m. to 9:00 a.m. on April 11, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT Chad Ray, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Chad.L.Ray@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce 33 CFR 100.704, Table 1 to § 100.704, Item No. 3, for the Motus Myrtle Beach Triathlon Swim regulated area from 8 a.m. to 9 a.m. on April 11, 2021. This action is being taken to provide for the safety of life on navigable waterways during this swim event. Our regulation for marine events within the Captain of the Port Charleston, § 100.704, specifies the locations of the regulated areas for the Motus Myrtle Beach Triathlon Swim which encompasses portions of the Atlantic Intracoastal Waterway in Myrtle Beach, SC. During the enforcement periods, as reflected in § 100.704, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

Dated: March 17, 2021.

J.D. Cole,

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

[FR Doc. 2021–05882 Filed 3–23–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2021–0116]

Special Local Regulations; Charleston Race Week, Charleston, SC

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

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the Charleston Race Week from April 8, 2021 through April 11, 2021. This action is necessary to ensure the safety of life on navigable waters of the United States during the Charleston Race Week event. Our regulation for marine events within the Seventh Coast Guard District identifies the regulated area for this event in Charleston, SC. During the enforcement period, no person or vessel may enter, transit through, anchor in, or remain within the designated area unless authorized by the Captain of the Port Charleston (COTP) or a designated representative.

DATES: The regulations in 33 CFR 100.704, Table 1 to § 100.704, Item No. 2, will be enforced from 9:00 a.m. until 5:00 p.m. each day from April 8, 2021 to April 11, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT Chad Ray, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *Chad.L.Ray@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation in 33 CFR 100.704, Table 1 to § 100.704, Item No. 2, for the Charleston Race Week regulated area from 9:00 a.m. to 5:00 p.m. from April 8, 2021 to April 11, 2021. This action is being taken to provide for the safety of life on navigable waterways during this 4-day event. The regulation for marine events within the Captain of the Port Charleston, § 100.704, specifies the locations of the regulated areas for the Charleston Race Week which encompasses portions of the Charleston Harbor. During the enforcement periods, as reflected in § 100.704, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

Dated: March 17, 2021.

J.D. Cole,

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

[FR Doc. 2021–05881 Filed 3–23–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Great Lakes St. Lawrence Seaway Development Corporation

33 CFR Part 402

RIN 2135–AA50

Tariff of Tolls

AGENCY: Great Lakes St. Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Great Lakes St. Lawrence Seaway Development Corporation (GLS) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the GLS and the SLSMC. The GLS is revising its regulations to reflect the fees and charges levied by the SLSMC in Canada starting in the 2021 navigation season, which are effective only in Canada. An amendment to increase the minimum charge per lock for those vessels that are not pleasure craft or subject in Canada to tolls under items 1 and 2 of the Tariff for full or partial transit of the Seaway will apply in the U.S. (See **SUPPLEMENTARY INFORMATION**.) In addition, Congress renamed the Saint Lawrence Seaway Development Corporation (SLSDC) as Great Lakes St. Lawrence Seaway Development Corporation (GLS) as part of the 2021 Consolidated Appropriations Act, signed into law on December 27, 2020. The joint regulations are being amended to reflect the name change. The Tariff of Tolls are in effect in Canada.

DATES: This rule is effective March 24, 2021.

ADDRESSES: *Docket:* For access to the docket to read background documents or comments received, go to *http://www.Regulations.gov;* or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Great Lakes St. Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Great Lakes St. Lawrence Seaway Development Corporation (GLS) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls (Schedule of Fees and Charges in Canada) in their respective jurisdictions.

The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the GLS and the SLSMC. The GLS is revising 33 CFR 402.12, ''Schedule of tolls'', to reflect the fees and charges levied by the SLSMC in Canada beginning in the 2021 navigation season. With one exception, the changes affect the tolls for commercial vessels and are applicable only in Canada. The collection of tolls by the GLS on commercial vessels transiting the U.S. locks is waived by law (33 U.S.C. 988a(a)).

The GLS is amending 33 CFR 402.12, ''Schedule of tolls'', to increase the minimum charge per vessel per lock for full or partial transit of the Seaway from $29.14 to $29.72. This charge is for vessels that are not pleasure craft or subject in Canada to the tolls under items 1 and 2 of the Tariff. This increase is due to higher operating costs at the locks.

In addition, Congress renamed the Saint Lawrence Seaway Development Corporation (SLSDC) as Great Lakes St. Lawrence Seaway Development Corporation (GLS) as part of the 2021 Consolidated Appropriations Act (Section 512 of Division AA of Pub. L. 116–260), signed into law on December 27, 2020. The joint regulations are being amended to reflect the name change.

Regulatory Notices: Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore, Executive Order 12866 does

not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et reg.) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

Accordingly, the Great Lakes St. Lawrence Seaway Development Corporation amends 33 CFR part 402 as follows:

PART 402—TARIFF OF TOLLS

■ 1. The authority citation for part 402 continues to read as follows:

Authority: 33 U.S.C. 983(a), 984(a)(4), and 988, as amended; 49 CFR 1.101.

■ 2. In § 402.3 revise the definition of Corporation to read as follows:

§ 402.3 Interpretation.

* * * * *

Corporation means the Great Lakes St. Lawrence Seaway Development Corporation.

* * * * *

■ 2. Revise § 402.12 to read as follows:

§ 402.12 Schedule of tolls.

Column 1 Item—description of charges	Column 2 Rate ($) Montreal to or from Lake Ontario (5 locks)	Column 3 Rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
1. Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
(1) a charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time [1].		
(a) all vessels excluding passenger vessels	0.1148	0.1837.
(b) passenger vessels	0.3445	0.5511.
(2) a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
(*a*) bulk cargo	1.1904	0.8125.
(*b*) general cargo	2.8684	1.3005.
(*c*) steel slab	2.5961	0.9310.
(*d*) containerized cargo	1.1904	0.8125.
(*e*) government aid cargo	n/a	n/a.
(*f*) grain	0.7314	0.8125.
(*g*) coal	0.7314	0.8125.
(3) a charge per passenger per lock	0.0000	0.0000.
(4) a lockage charge per Gross Registered Ton of the vessel, as defined in item 1(1), applicable whether the ship is wholly or partially laden, or is in ballast, for transit of the Welland Canal in either direction by cargo ships.	n/a	0.3061.
Up to a maximum charge per vessel	n/a	4,281.
2. Subject to item 3, for partial transit of the Seaway	20 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3).	13 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3).
3. Minimum charge per vessel per lock transited for full or partial transit of the Seaway.	29.72 [2]	29.72.
4. A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal taxes[3].	30.00 [4]	30.00.
5. Under the New Business Initiative Program, for cargo accepted as New Business, a percentage rebate on the applicable cargo charges for the approved period.	20%	20%.

Column 1	Column 2	Column 3
Item—description of charges	Rate ($) Montreal to or from Lake Ontario (5 locks)	Rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
6. Under the Volume Rebate Incentive program, a retroactive percentage rebate on cargo tolls on the incremental volume calculated based on the pre-approved maximum volume.	10%	10%.
7. Under the New Service Incentive Program, for New Business cargo moving under an approved new service, an additional percentage refund on applicable cargo tolls above the New Business rebate.	20%	20%.

[1] Or under the US GRT for vessels prescribed prior to 2002.
[2] The applicable charged under item 3 at the Great Lakes St. Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33U.S.C. 988a(a)). The other charges are in Canadian dollars and are for the Canadian share of tolls.
[3] $5.00 discount per lock applicable on ticket purchased for Canadian locks via PayPal.
[4] The applicable charge at the Great Lakes St. Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is $30 U.S. or $30 Canadian per lock.

Issued at Washington, DC.

Great Lakes St. Lawrence Seaway Development Corporation.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2021–05503 Filed 3–23–21; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2013–0597; FRL–10014–63–OAR]

RIN 2060–A075

Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is adopting three technical standards developed by SAE International (SAE) for equipment that recovers, recycles, and/or recharges the refrigerant 2,3,3,3-Tetrafluoroprop-1-ene (HFO–1234yf or R–1234yf) in motor vehicle air conditioners (MVACs). The three standards are SAE J2843, SAE J2851, and SAE J3030. This rule adopts the most current versions of these standards by incorporating them by reference into the regulations under Title VI of the Clean Air Act (CAA). This will provide additional flexibility for industry stakeholders that wish to select recovery and recycling equipment certified to these standards.

DATES: This final rule is effective on April 23, 2021, 30 days after publication in the **Federal Register**. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 23, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2013–0597. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Chenise Farquharson, Stratospheric Protection Division, Office of Atmospheric Programs (Mail Code 6205T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–7768; email address: *farquharson.chenise@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. General Information

A. Does this action apply to me?

Regulated entities, identified by the North American Industrial Classification System (NAICS) Code, may include, but are not limited to, the following which all fall under the category of ''Industry'':

- New and used car dealers (NAICS code 441110)
- Gas service stations (NAICS codes 447110 and 447190)
- General automotive repair shops (NAICS code 811111)
- Automotive repair shops not elsewhere classified, including air conditioning and radiator specialty shops (NAICS code 811198)
- Other motor vehicle parts manufacturing (NAICS code 336390)

This list is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in CAA section 609, and relevant implementing regulations at 40 CFR part 82, subpart B. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What acronyms and abbreviations are used in the preamble?

AHRI Air-Conditioning, Heating, and Refrigeration Institute, formerly Air-Conditioning and Refrigeration Institute (ARI)
ASHRAE American Society of Heating, Refrigerating and Air-Conditioning Engineers
CAA Clean Air Act
CFC Chlorofluorocarbon
CFR Code of Federal Regulations
EPA United States Environmental Protection Agency
ETL ETL Testing Laboratories
HCFC Hydrochlorofluorocarbon
HFC Hydrofluorocarbon
HFO Hydrofluoroolefin
ICCSC Interior Climate Control Standards Committee
MVACs Motor Vehicle Air Conditioners
MY Model Year
NAICS North American Industrial Classification System
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
SAE SAE International, formerly the Society of Automotive Engineers
SNAP Significant New Alternatives Policy
UMRA Unfunded Mandates Reform Act
UL Underwriters Laboratories

II. Background

A. CAA section 609

CAA section 609 directs the EPA to issue regulations establishing standards and requirements for the servicing of MVACs. For purposes of the regulations implementing CAA section 609, MVACs [1] are defined as equipment that use mechanical vapor compression refrigeration to cool the driver's or passenger's compartment of any motor vehicle. This definition is not intended to encompass the hermetically sealed refrigeration systems used on motor vehicles for refrigerated cargo and the air conditioning systems on passenger buses using hydrochlorofluorocarbons (HCFC)–22 or R–22 refrigerant. For purposes of the section 609 regulations, motor vehicle is defined as any vehicle which is self-propelled and designed for transporting persons or property on a street or highway, including but not limited to passenger cars, light-duty vehicles, and heavy-duty vehicles. This definition does not include a vehicle where final assembly of the vehicle has not been completed by the original equipment manufacturer.

Under CAA section 609 and regulations that implement it, no person repairing or servicing motor vehicles for consideration (*e.g.,* payment or bartering) may perform any service on an MVAC that involves the refrigerant [2] without properly using approved refrigerant recovery or recovery and recycling equipment, and no such person may perform such service for consideration unless such person has been properly trained and certified. Section 609 also restricts the sale of class I and class II substances for use as a refrigerant in MVACs in containers of 20 pounds or less, except to certified technicians. Class I substances (chlorofluorocarbons (CFCs), halons, carbon tetrachloride, methyl chloroform, methyl bromide, hydrobromofluorocarbons, and chlorobromomethane) and class II substances (HCFCs) are ozone-depleting compounds and are listed in 40 CFR part 82, subpart A, appendices A and B, respectively.

Regulations issued under CAA section 609, codified at 40 CFR part 82, subpart B, include, among other things, prohibited and required practices for persons repairing and servicing MVACs for consideration (40 CFR 82.34); requirements for refrigerant handling equipment (40 CFR 82.36); approval processes for independent standards testing organizations (40 CFR 82.38); requirements for certifications that any person servicing or repairing MVACs for consideration must submit to the EPA, and related recordkeeping requirements (40 CFR 82.42). Appendices A–F at 40 CFR part 82, subpart B, provide minimum operating requirements for equipment used for the recovery, recycling and/or recharging of refrigerant used in MVACs.

B. Major Rules Under CAA Section 609

In 1992, the EPA published a rule (57 FR 31242; July 14, 1992) under CAA section 609 establishing standards and requirements for servicing of MVACs and restricting the sale of small containers of ozone-depleting substances. The regulations, which appear in 40 CFR part 82, subpart B, require persons who repair or service MVACs for consideration to be certified in refrigerant recovery and recycling and to properly use approved equipment when performing service involving the refrigerant. Consistent with the definition in CAA section 609(b)(1), ''refrigerant'' is defined in subpart B as any class I or class II substance used in MVACs, and to include any substitute substance effective November 15, 1995. The 1992 rule also defined approved refrigerant recycling equipment as equipment certified by the Administrator or an approved organization as meeting either one of the standards in 40 CFR 82.36. Such equipment extracts and recycles refrigerant or extracts but does not recycle refrigerant, allowing that refrigerant to be subsequently recycled on-site or to be sent off-site for reclamation.[3] The EPA based the regulatory equipment standards in subpart B on those developed by SAE. They cover service procedures for dichlorodifluoromethane (CFC–12 or R–12) recover/recycle equipment (SAE J1989, issued in October 1989), test procedures to evaluate R–12 recover/recycle equipment (SAE J1990, issued in October 1989 and revised in 1991) and a purity standard for recycled R–12 refrigerant (SAE J1991, issued in October 1989). Only equipment certified to meet the standards set forth in appendix A at 40 CFR part 82, subpart B, or that meet the criteria for substantially identical equipment, was approved under CAA section 609 for use in the servicing of MVACs at that time.

The 1992 rule also implemented the statutory prohibition on the sale or distribution of any class I or class II substance suitable for use in MVACs that is in a container of less than 20 pounds, to anyone other than a properly trained and certified section 609 technician. The rule also contained standards by which: (1) An independent

[1] A related definition for MVAC-like is found at 40 CFR 82.152: MVAC-like appliance means a mechanical vapor compression, open-drive compressor appliance with a full charge of 20 pounds or less of refrigerant used to cool the driver's or passenger's compartment of off-road vehicles or equipment. This includes, but is not limited to, the air-conditioning equipment found on agricultural or construction vehicles. This definition is not intended to cover appliances using R–22 refrigerant.

[2] Section 609(b)(1) defines the term ''refrigerant,'' ''[a]s used in this section'', to mean ''any class I or class II substance used in a motor vehicle air conditioner. Effective 5 years after November 15, 1990, the term 'refrigerant' shall also include any substitute substance.''

[3] Equipment that extracts and recycles refrigerant is referred to as recover/recycle equipment. Equipment that extracts but does not recycle refrigerant is referred to as equipment that recovers but does not recycle refrigerant, or as recover-only equipment.

standards testing organization may apply to the agency for approval to test and certify refrigerant recycling equipment; and (2) a training and certification program may apply to the agency for approval to train and certify technicians in the proper use of refrigerant recycling equipment for MVACs. Underwriters Laboratories (UL) and Intertek (formerly ETL Testing Laboratories (ETL)) are the approved independent standards testing organizations that currently certify equipment using the standards that appear in appendix A of 40 CFR part 82, subpart B.

Finally, the 1992 rule established recordkeeping and reporting requirements that include: Certifying that only properly trained and certified individuals are repairing or servicing MVACs for consideration; certifying the use of approved recycling equipment and that each individual authorized to use the equipment has obtained the proper training and certification; and requiring that owners of approved refrigerant recycling equipment retain records demonstrating that all persons authorized to operate the equipment obtained the required certification.

In 1995, the EPA issued a rule (60 FR 21682; May 2, 1995) establishing regulatory standards, based on standards developed by SAE, which applied to certification of R–12 recover-only equipment, in appendix B at 40 CFR part 82, subpart B. Specifically, for recover-only equipment, the agency adopted the recommended service procedure for the containment of R–12 (SAE J1989, issued in October 1989 and set forth in subpart B, appendix B) and test procedures to evaluate recover-only equipment (SAE J2209, issued in June 1992). The definition of ''approved refrigerant recycling equipment'' was revised in the 1995 rule to include this recover-only equipment. UL and ETL were also approved to certify recover-only equipment. Finally, service technicians previously certified to handle recover/recycle equipment were grandfathered so that they would not have to be recertified to handle recover-only equipment.

The EPA issued a third rule under CAA section 609 in 1997 (62 FR 68026; December 30, 1997) in response to the increasing use of alternative refrigerants, particularly 1,1,1,2-tetrafluoroethane (HFC–134a or R–134a). The 1997 rule established standards and requirements for the servicing of MVACs that use any refrigerant other than R–12. The rule also stated refrigerant (whether R–12 or a substitute) recovered from motor vehicles at motor vehicle disposal facilities may be re-used in the MVAC service sector only if it has been properly recovered and recycled by persons who are either employees, owners, or operators of the facilities, or technicians certified under CAA section 609, using approved equipment. The 1997 rule also established conditions under which owners and operators of motor vehicle disposal facilities may sell refrigerant recovered from such vehicles to technicians certified under CAA section 609.

Additionally, the 1997 rule established standards for recover/recycle and recovery/recycling/recharging equipment for R–134a; recover-only equipment for R–12, R–134a, and hydrofluoroolefin (HFO)–1234yf or R–1234yf; recycling equipment intended for use with both R–12 and R–134a; and recover-only equipment for a single refrigerant other than R–12 or R–134a. The 1997 rule established appendices C through F at 40 CFR part 82, subpart B. Specifically, appendix C contains standards based on SAE J2788 for recovery/recycling and recovery/recycling/recharging equipment for R–134a refrigerant. Appendix D is based upon SAE J1732 and establishes standards for recover-only equipment for R–134a. Appendix E contains standards for recover-only equipment for both R–12 and R–134a, while appendix F establishes standards for recover-only equipment for any single refrigerant other than R–12 and R–134a.

Since the publication of the 1997 rule, the EPA has published two rules, one in 2007 (72 FR 63490; November 9, 2007) and one in 2008 (73 FR 34644; June 18, 2008), to reflect updated SAE standards. Test results from the SAE Improved Mobile Air Conditioning Cooperative Research Project,[4] an MVAC industry sponsored research project, showed that equipment certified to meet SAE J2210 and SAE J1732 [5] left as much as 30% of the refrigerant in MVACs. As a result of these findings, SAE developed SAE J2788 and SAE J2810, which require that equipment be capable of recovering 95% of refrigerant from MVACs. The two rules adopted SAE J2788 and SAE J2810, which replaced SAE J2210 and SAE J1732, respectively, allowing for an increased percent of refrigerant to be recovered during servicing.

[4] SAE, Improved Mobile Air Conditioning Cooperative Research Program. *https://www.regulations.gov/document?D=EPA-HQ-OAR-2006-0428-0003* and *https://www.regulations.gov/document?D=EPA-HQ-OAR-2008-0231-0002.*

[5] SAE J2210 (HFC–134a (R–134a) Recovery/Recycling Equipment for Mobile Air-Conditioning Systems (Cancelled Nov 2010)). SAE J1732 (HFC–134a (R–134a) Refrigerant Recovery Equipment for Mobile Automotive Air-Conditioning Systems (Stabilized Nov 2011)).

III. What is the EPA finalizing in this action?

The EPA is amending 40 CFR part 82, subpart B, §§ 82.32, 82.36, 82.38, and 82.40 to adopt three equipment standards for the servicing of MVACs that use the refrigerant R–1234yf by incorporating them by reference into the CAA section 609 regulations. The standards provide technical specifications for equipment used for servicing MVACs containing R–1234yf consistent with CAA section 609 regulations, codified at 40 CFR part 82, subpart B. The refrigerant R–1234yf was listed by the EPA's Significant New Alternatives Policy (SNAP) program as acceptable, subject to use conditions, in MVACs in new cars and new light-duty trucks (76 FR 17488; March 29, 2011), and in certain new heavy-duty vehicles—new medium-duty passenger vehicles, new heavy-duty pickup trucks, and new complete heavy-duty vans (81 FR 86778; December 1, 2016).

The existing regulations at 40 CFR 82.34 state that no person repairing or servicing MVACs for consideration may perform any service involving refrigerant for such MVACs without properly using equipment approved pursuant to 40 CFR 82.36. This final rule adds equipment certified to meet SAE J2843, J2851, and J3030 to the equipment approved under CAA section 609 implementing regulations to recover, recycle, and/or recharge the refrigerant R–1234yf for MVACs.

A. What are the standards the EPA is adopting?

The EPA is adopting the following three equipment standards for the servicing of MVACs that use R–1234yf:

- SAE J2843 (revised July 2019), ''R–1234yf [HFO–1234yf] Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems;''
- SAE J2851 (revised February 2015), ''Recovery Equipment for Contaminated R–134a or R–1234yf Refrigerant from Mobile Air Conditioning Systems;'' and
- SAE J3030 (revised July 2015), ''Automotive Refrigerant Recovery/Recycling/Recharging Equipment Intended for use with Both R–1234yf and R–134a.''

SAE J2843, J2851, and J3030 were developed by SAE, which is a global association of more than 138,000 engineers and related technical experts in the aerospace, automotive, and commercial-vehicle industries. The SAE Interior Climate Control Standards Committee (ICCSC) consists of five sub-

committees: Steering, Service, Fluids, MAC Supplier, and Vehicle OEM. The SAE ICCSC includes representatives from across the MVAC industry, including system component manufacturers, automobile manufacturers, servicing equipment manufacturers, and refrigerant manufacturers. The members of each committee have expertise in that area and are responsible for the development of SAE standards or recommended practice documents. The committee has published more than 50 documents and has an HS–2900 handbook that includes standards on safety, refrigerants, components, testing, service procedures, service equipment, and training. Each of the SAE Ground Vehicle Standards (*e.g.,* SAE J2843, J2851, and J3030) for technical specifications related to MVAC servicing undergoes a rigorous peer review process. The EPA has previously cited some of these standards in regulations.

The three SAE standards that are being adopted and incorporated by reference relate to recycling, recovery, and/or recharging of R–1234yf. R–1234yf has gained significant market share in motor vehicles since its introduction in the 2013 model year (MY). According to the 2019 EPA Automotive Trends Report, in the 2018 MY, use of R–1234yf has grown to 13 manufacturers (accounting for more than 60% of the US new vehicle fleet) and some manufacturers have implemented R–1234yf across their entire vehicle brands.[6] This increased use of R–1234yf will lead to more MVACs needing to be serviced and/or repaired compared to when R–1234yf was first introduced. Adopting SAE J2843, J2851, and J3030 will assist technicians choosing to repair or service MVACs containing R–1234yf to properly use approved refrigerant handling equipment when performing any service involving the refrigerant. As R–1234yf is classified by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) as mildly flammable, the equipment meeting these standards must have electrical components deemed acceptable for exposure to refrigerants at that level of flammability, ensuring the safety of technicians. This rule also increases industry flexibility in selecting proper recovery, recycling, and recharging equipment by expanding the available options. Adoption of the standards also helps to mitigate the risk to human health and the environment by directing technicians towards equipment that should limit unintentional releases of automotive refrigerant during the service or repair of MVACs. Moreover, use of equipment that meets SAE J2843, J2851, and J3030 should reduce mixing of refrigerants. Preventing the mixing of refrigerants facilitates refrigerant recycling and reduces releases into the atmosphere. Equipment meeting the three standards are capable of near-complete recovery of refrigerant from such MVACs. Below is further description of each standard.

i. SAE J2843

SAE J2843 (revised July 2019) establishes standards for equipment that recovers, recycles, and/or recharges R–1234yf in MVACs. This standard applies to equipment intended for use with R–1234yf refrigerant only. Equipment meeting this standard must be capable of recovering refrigerant within 30 minutes, which is consistent with other SAE standards, resulting in convenience for the car owner as well as the technician. The recycling capabilities of equipment meeting SAE J2843 can return the refrigerant to the same level of purity as newly manufactured (virgin) refrigerant, ensuring that the refrigerant recharged into the system will provide the same level of performance and durability as virgin refrigerant. This recycling allows for the continued use of recovered refrigerant. Prior to recharging an MVAC, service technicians using equipment meeting this standard can check for leaks that could be repaired to avoid refrigerant releases. Maintaining a properly charged MVAC should result in efficient operation.

ii. SAE J2851

SAE J2851 (revised February 2015) establishes minimum performance and operating standards for equipment that recovers contaminated R–134a and/or R–1234yf refrigerant from MVACs. Refrigerant recovered with this equipment cannot be recycled on-site and instead should be returned to an EPA-approved reclamation facility that will process it appropriately as per Air-Conditioning, Heating, and Refrigeration Institute (AHRI) 700 standard entitled *Specifications for Refrigerants.* Refrigerant recovery equipment should ensure adequate refrigerant recovery and reduce emissions during the removal of refrigerant from MVACs.

iii. SAE J3030

SAE J3030 (revised July 2015) establishes the minimum requirements for recovery/recycling/recharging equipment intended for use to service MVACs that contain either R–1234yf or R–134a. New equipment capable of performing any service on MVACs that involves recovery of, recycling of, or recharging with either R–134a or R–1234yf would be required to meet SAE J3030 requirements for both refrigerants. The dual-refrigerant equipment covered by this standard may be useful given that R–134a and R–1234yf are both widely used in motor vehicles in the United States. Equipment certified to J3030 are designed to prevent contamination when switching between refrigerants.

B. What is the effect of adopting these standards?

Adopting these standards will assist approved independent standards testing organizations (currently UL and Intertek) in certifying equipment for commercial refrigerant recovery/recycling/recharging that meet the EPA's minimum performance requirements. In addition, service and repair shops would be required to use equipment certified to meet SAE J2843, J2851, and J3030 when servicing MVACs using R–1234yf.

The EPA's amendments to 40 CFR 82.36 revise paragraph (a)(7) and add paragraphs (a)(8), (9), (10). These revisions establish that servicing equipment manufactured to meet SAE J2843, J2851, or J3030 that is certified by the EPA (or by an independent standards testing organization approved by the EPA under 40 CFR 82.38) may be used for repairing or servicing MVACs consistent with 40 CFR 82.34(a)(1). The EPA is also amending 40 CFR 82.32(e)(1), 82.38, and 82.40 to include references to 40 CFR 82.36(a)(8)–(10). The revisions to 40 CFR 82.32(e)(1) update the definition of the term ''properly using'' to add the standards incorporated by reference at 40 CFR 82.36(a)(8)–(10) to the list of recommended service procedures and practices for the containment of refrigerant. The revisions to 40 CFR 82.38 allow independent standards testing organizations to apply for approval to certify equipment as meeting the standards incorporated by reference at 40 CFR 82.36(a)(8)–(10), as well as the currently existing standards in appendices A, B, C, D, E, and F. The revisions to 40 CFR 82.40 add the standards incorporated by reference at 40 CFR 82.36(a)(8)–(10) to the list of standards that any technician training program seeking approval must demonstrate are covered by their certification tests. It would be appropriate for approved technician training and certification programs to update their materials to reflect the

[6] EPA, 2019. Automotive Trends Report. Available at: *https://www.epa.gov/automotive-trends/download-automotive-trends-report.*

standards incorporated by reference at 40 CFR 82.36(a)(8)–(10) and to submit a summary of the conforming changes to the Administrator as part of the summary required by 40 CFR 40.82(c). Current regulations at 40 CFR 82.36 contain the requirements for approved refrigerant handling equipment, including the requirement for certification of such equipment by the EPA or an independent, standards testing organization approved by the EPA. The Agency maintains a list of approved equipment by manufacturer and model at: *https://www.epa.gov/mvac/section-609-certified-equipment.*

Lastly, the EPA is amending appendix F to subpart B of part 82. This appendix contains specifications for recovery equipment that extracts a single, specific refrigerant other than those named in the other appendices to subpart B. Since the EPA is adding standards for recovery equipment for MVACs containing R–1234yf, the EPA is noting that as appropriate, in this appendix.

Existing EPA regulations that are not modified by this action require stakeholders who chose to service or repair vehicles that use R–1234yf to use certified equipment. Equipment certified to meet SAE J2843, J2851, and J3030 will provide additional flexibility for industry stakeholders and protect human health and the environment. Use of equipment that meets the three standards also supports compliance with the prohibition in section 608(c) of the CAA on knowingly venting or otherwise knowingly releasing or disposing of refrigerant in a manner that allows the refrigerant to enter the environment in the course of servicing, maintaining, repairing, or disposing of an appliance. In addition, proper handling of R–1234yf is important given it is listed by ASHRAE as an A2L refrigerant meaning it is mildly flammable.[7]

IV. Incorporation by Reference

The EPA is adopting the following three standards by incorporating them by reference—SAE J2843 (revised July 2019), ''R–1234yf (HFO–1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems;'' SAE J2851 (revised February 2015) ''Recovery Equipment for Contaminated R–134a or R–1234yf Refrigerant from Mobile Automotive Air-Conditioning Systems;'' and SAE J3030 (revised July 2015) ''Automotive Refrigerant Recovery/Recycling/Recharging Equipment Intended for use with Both R–1234yf and R–134a.'' Section III.A. of this preamble discusses these standards in greater detail. This action approves and provides technical specifications for MVAC recovery/recycling/recharging equipment so that it may be used for R–1234yf under CAA section 609 and 40 CFR part 82, subpart B.

Incorporation by reference allows Federal agencies to comply with the requirement to publish rules in the **Federal Register** and the Code of Federal Regulations by referring to material already published elsewhere. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register** and Code of Federal Regulations.

SAE J2843, J2851, and J3030 are available for purchase by mail at: SAE Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096–0001; Telephone: 1–877–606–7323 in the U.S. or Canada (other countries dial 1–724–776–4970); internet address for SAE J2843: *https://www.sae.org/standards/content/j2843_201907;* internet address for SAE J2851: *https://www.sae.org/standards/content/j2851_201502;* internet address for SAE J3030: *https://www.sae.org/standards/content/j3030_201507.* The cost of SAE J2843, SAE J2851, and SAE J3030 is $83 each for an electronic or hard copy. The cost of obtaining these standards is not a significant financial burden for manufacturers of MVACs or recovery equipment manufacturers and purchase is not required for those selling, installing, or using the refrigerant handling equipment covered by these standards. Therefore, the EPA concludes that SAE J2843, SAE J2851, and SAE J3030 are reasonably available.

V. Response to Comments

The EPA received eight comments on the proposed rule from individuals and organizations with various interests in the MVAC industry. Most commenters supported the proposal to adopt SAE J2843, J2851, and J3030 by incorporating them by reference into the regulations implementing CAA section 609. A few commenters also suggested changes the EPA should consider incorporating into the CAA section 609 regulations or requested additional information concerning the three standards. Some of the commenters raised issues that are outside the scope of this rulemaking and the EPA is not providing a specific response to those comments. We have grouped comments together and responded to the issues raised by the commenters in the sections that follow.

A. Support for Adoption of the Standards

Comment: Seven commenters supported the proposal to adopt the three SAE standards. One commenter stated that adopting the standards would reduce the amount of refrigerant currently being used and needed to meet future demand. One commenter stated that adopting the standards would establish clear guidance for the automotive repair sector to ensure the equipment and procedures being used effectively support the overall goal of reducing the global warming impact of air conditioning. Another commenter stated that having proper equipment, usage/handling of the materials/vapors, and being certified to use the equipment is paramount to environmental protection.

Response: EPA acknowledges the comments and is adopting the three standards as proposed.

B. Concerns Regarding SAE J3030

Comment: One commenter expressed support for the adoption of SAE J2843 and J2851, but objected to the adoption of SAE J3030, which covers R–134a and R–1234yf dual refrigerant equipment. The commenter stated that by allowing machines to service both R–134a and R–1234yf MVACs there is potential for misuse and refrigerant cross-contamination, which would be problematic for service providers, consumers, original equipment manufacturers (OEMs), and reclaimers due to flammability concerns. The commenter also stated that any environmental benefit from the use of a lower global warming potential (GWP) refrigerant and carbon dioxide (CO_2)-equivalent credits[8] generated by OEMs for mileage allowance from the transition to R–1234yf will be lost if R–134a is used to service R–1234yf MVACs. Additionally, the commenter also stated that the value of the refrigerant for recovery, recycling, and recharging would be lost as it would be impossible to separate the refrigerants from one another.

[7] American National Standards Institute (ANSI)/ASHRAE Standard 34—2016 assigns a safety group classification for each refrigerant which consists of two alphanumeric characters (*e.g.,* A2 or B1). The capital letter indicates the toxicity (*i.e.,* A = no evidence of toxicity, B = signifies toxicity) and the numeral denotes the flammability. Refrigerants with flammability classification ''3'' are highly flammable while those with flammability classification ''2'' are less flammable and those with flammability classification ''2L'' are mildly flammable.

[8] CO_2 equivalence (CO_2e) expresses the global warming potential of a greenhouse gas (for A/C, hydrofluorocarbons) by normalizing that potency to CO_2's. Thus, the maximum A/C credit for direct emissions is the equivalent of 18.8 grams/mile of CO_2 for cars.

Response: The EPA acknowledges the commenter's support for the adoption of SAE J2843 and J2851. With regard to the commenter's concerns regarding SAE J3030, the EPA does not agree that the use of equipment certified to meet SAE J3030 would result in cross-contamination of MVACs. SAE J3030 was developed to prevent the misuse and tampering of servicing equipment, the mixing of R–134a and R–1234yf, and the contamination of MVACs by technicians while a significant number of vehicles with R–134a are in use and R–1234yf is being used in an increasing number of new motor vehicles. A similar standard was developed to certify equipment intended for use with both R–12 to R–134a MVACs in 1995: *SAE J1770, Automotive Refrigerant Recovery/Recycling Equipment Intended for use With Both R12 and R134a (Cancelled November 2010).* SAE J1770 established specific minimum equipment requirements for recovery/recycling equipment intended for use with both R–12 and R–134a in a common refrigerant circuit that had been directly removed from and intended for reuse in MVACs. We have no information suggesting that proper use of equipment certified to SAE J1770 led to any increase in emissions of R–12 or R–134a. Based on our experience with SAE J1770, we are confident that proper use of equipment certified to SAE J3030 also will not lead to any increase in emissions of R–134a.

The EPA acknowledges the potential safety hazards, flammability risks, and potential for cross-contamination when multiple refrigerants are used to service MVACs. The agency also acknowledges the potential loss of environmental benefits if a refrigerant other than the one for which the vehicle is designed is used to service the system. However, incorporating SAE J3030 by reference does not alter the regulatory requirements governing which refrigerants can be used for servicing. Instead, as explained below, SAE J3030 was specifically designed to minimize cross contamination and thus preserve environmental benefits. The commenter's concern about a potential loss of CO_2e credits is also misplaced. Under EPA's light-duty Greenhouse Gas (GHG) standards for MY 2017–2025, vehicle manufacturers may generate credits toward compliance with the CO_2e GHG emission standards, both for improving the efficiency of MVACs and for reducing MVAC HFC emissions by reducing leakage or using alternative, lower-GWP refrigerants. (see 40 CFR 86.1865–12 and 1867–12). Any credits a manufacturer may generate at the time of vehicle production based on the use of a specific MVAC refrigerant are not affected by actions taken later at facilities servicing those vehicles. However, the expected GHG emission reductions from the GHG program can only be achieved if the proper refrigerant is used throughout the useful life of the vehicles, so avoiding cross contamination of the servicing equipment maintains the intended benefits of the GHG program when vehicle MVAC systems are recharged.

SAE J3030 was developed to mitigate potential risks and concerns by establishing equipment specifications and testing procedures for certifying laboratories to ensure that equipment does not cross contaminate refrigerant above specified limits when used under normal operating conditions. For example, as discussed in section 3.3 of the standard, equipment certified to SAE J3030 ''must meet all feature content and functional requirements of both SAE J2788 for R–134a and SAE J2843 for R–1234yf and pass all test requirements of these standards. In addition, it must pass a changeover test to determine that any refrigerant cross-contamination is within the limits of this standard.'' Additionally, section 4.1.1 of the standard describes the requirement for SAE J3030-certified equipment to have ''an electronically-controlled electro-mechanical lockout to permit the recovery, recycle, recharge sequence of either R–1234yf or R–134a. If [the equipment determines that the MVAC system] does not contain R–1234yf or R–134a in the required purity, it shall not permit refrigerant recovery.'' For these reasons, we conclude that proper use of equipment certified to SAE J3030 is not related to GHG credits generated by auto manufacturers and will not lead to a loss in either the expected environmental benefits of the GHG program or CO_2e credits.

C. Other Suggestions and Concerns

Comment: One commenter noted a technical error in the title of SAE J2843 in the proposed regulatory text at 40 CFR 82.36(a)(8).

Response: The EPA appreciates this comment and has corrected the title of SAE J2843 in the final rule.

Comment: One commenter would like to see more enforcement of the CAA 609 regulations as they pertain to technicians and service shop owners. The commenter requested that the EPA require that all certified AC shops have their technicians certified under the ASE Refrigerant Recovery and Recycling Program and provide proof when applying for their business license. The commenter also requested that the EPA require that proper storage procedures are in place for refrigerants. Additionally, the commenter voiced concern about the cost to service centers that would need to purchase new equipment.

Response: The EPA acknowledges the commenter's suggestions. Comments concerning enforcement, technician certification, and refrigerant storage procedures are beyond the scope of this rulemaking and thus no response to comments on those topics is required. In this action, the EPA is solely adopting by incorporating by reference the three existing SAE standards that include guidelines and requirements for equipment designed to service R–1234yf MVACs. The EPA did not propose and is not requiring in this final rule that service shops service R–1234yf MVACs. Prior to the issuance of this final rule, there was and continues to be certified equipment that can be used by service shops that choose to service MVACs with R–1234yf and do not wish to use equipment that meets the standards EPA is adopting. This rule provides additional flexibility to service shops by expanding the universe of equipment that may be certified for use by technicians. As such, it does not impose costs on service shops. With regards to the commenter's proposal that the EPA require technicians to be certified under the ASE Refrigerant Recovery and Recycling Program, as noted above, the EPA did not propose and is not making any changes to the technician certification requirements in this final rule; EPA's existing regulations currently require that all technicians who repair or service MVACs for consideration be trained and certified by one of the EPA-approved technician training and certification programs, which are listed at *https://www.epa.gov/mvac/section-609-technician-training-and-certification-programs.*

Comment: One commenter inquired about studies regarding efficiency of the standards, impacts of the standards for vehicle manufacturers and service centers, and the environmental benefits of recycling versus discarding R–1234yf.

Response: With regard to the question regarding efficiency of the standards, we assume the commenter is asking about the efficiency rate achieved by the standards. As discussed above in section II.B of this rule, SAE J2843 includes requirements established in SAE J2788 that should result in an efficient 95% refrigerant recovery rate during MVAC servicing. Research showed that equipment certified to meet

SAE J2210 and SAE J1732 [9] left as much as 30% of the refrigerant in MVACs. As a result of these findings, SAE developed SAE J2788 and SAE J2810, which require that equipment be capable of recovering 95% of refrigerant from MVACs. Regarding impacts on vehicle manufacturers and service centers, this action is intended to provide additional flexibility for industry stakeholders that wish to select recovery and recycling equipment certified to the three SAE standards. This action should not affect vehicle manufacturers and does not require the purchase of R–1234yf MVAC servicing equipment. Instead it adopts existing SAE standards that include guidelines and requirements for equipment designed to service R–1234yf MVACs safely and efficiently. Regarding the question about the benefits of recycling versus discarding R–1234yf, the EPA did not propose and is neither requiring nor prohibiting either destruction or recycling of R–1234yf in this final rule, and thus this issue is not relevant to this rulemaking. Destruction of the refrigerant remains a viable option for service shops (*e.g.,* service shops could recover and send for destruction the refrigerant if so desired). Under CAA section 609, all refrigerant, including R–1234yf, must be properly recycled or reclaimed before it can be reused, even if it is being returned to the vehicle from which it was removed. We understand that most service shops today choose to recover and either recycle or send for reclamation MVAC refrigerants. Additionally, CAA section 608 and its implementing regulations prohibit knowingly venting or otherwise knowingly releasing or disposing of refrigerants such as R–1234yf when maintaining, servicing, repairing, or disposing of air conditioning or refrigeration equipment, including MVACs. When an MVAC system enters the waste stream, the final person in the disposal chain must recover the refrigerant, or verify using a signed statement or contract that the refrigerant has been recovered, prior to disposal. Additional information and requirements regarding safe disposal is available at *https://www.epa.gov/section608/stationary-refrigeration-safe-disposal-requirements.*

Comment: One commenter requested that the EPA rely more on the International Laboratory Accreditation Cooperation accreditation framework for assessments, monitoring, and granting accreditations. The commenter further requested that the EPA collaborate with DOC/NIST/Standards Coordination Office in order to provide consistent guidance.

Response: The EPA also acknowledges the commenter's additional suggestions; however, they are outside the scope of this rulemaking, so no response is required.

Comment: One commenter expressed support for adoption of the three standards and stated that they are appropriate in that they help ensure the efficacy of MVAC refrigerant recycling equipment. The commenter, however, stated that the EPA does not have authority under CAA section 609 to mandate the purchase and use of R–1234yf servicing equipment and strongly objected to any mandate that requires the purchase and use of R–1234yf MVAC servicing equipment by dealerships because ''R–1234yf is not an [ozone-depleting substance (ODS)].'' The commenter also objected to the proposed changes to the definition of ''properly using'' that they asserted would require the use of R–1234yf MVAC servicing equipment in conformity with the regulations at 40 CFR part 82, subpart B. The commenter asserted that the rule ''lacks both a sufficient legal basis and any plausible cost/benefit justification'' and that market-based decisions alone should be considered.

Response: The EPA acknowledges the commenter's support for the adoption of the three standards. In this action, the EPA is adopting and incorporating by reference the three existing SAE standards to provide additional flexibility for stakeholders who wish to select recovery and recycling equipment certified to the three standards. The EPA did not propose and is not mandating in this final rule that any person or dealership that services vehicles use R–1234yf or purchase or use R–1234yf MVAC servicing equipment. The commenter's assertion that the EPA does not have authority to mandate the purchase and use of R–1234yf MVAC servicing equipment is thus not relevant to this action and requires no further response. CAA section 609 gives the EPA authority to promulgate regulations establishing standards and requirements regarding the servicing and repair of MVAC and this action is taken pursuant to that authority.[10]

For service shops that choose to service MVACs, including R–1234yf MVACs, the regulations requiring technicians to use certified equipment prior to service or repair have been in place since 1992 (57 FR 31242; July 14, 1992). As mentioned above in section II.B, the regulations issued in 1992 under CAA section 609, codified at 40 CFR part 82, subpart B, include, among other things, a definition of ''refrigerant'' that includes any class I or class II substance used in an MVAC, as well as any substitute substance effective November 15, 1995 (40 CFR 82.32(f)); prohibited and required practices for persons repairing and servicing MVACs for consideration (40 CFR 82.34); requirements for refrigerant handling equipment (40 CFR 82.36); approval processes for independent standards testing organizations (40 CFR 82.38); requirements for certifications that any person servicing or repairing MVACs for consideration must submit to the EPA, and related recordkeeping requirements (40 CFR 82.42). The EPA has neither reopened nor requested comment on these requirements, approval processes, and definition. This action does not alter the requirement to comply with the provisions in 40 CFR part 82, subpart B. Instead, it expands the types of equipment that can be certified to service vehicles that use R–1234yf. As such, this action provides a benefit to stakeholders by expanding the options available to and providing additional flexibility for stakeholders that choose to service vehicles that use R–1234yf. Because this action does not impose additional requirements but instead provides additional options to stakeholders, there are no compliance costs associated with this action and the commenter's implicit suggestion that the benefits don't justify the costs is thus misplaced. Additionally, the EPA interprets the comment regarding market-based decisions to mean that the market alone should dictate whether service shops purchase and use R–1234yf MVAC servicing equipment, rather than a legal mandate. As mentioned earlier, the EPA did not propose and is not mandating in this final rule that any person or dealership that services vehicles use R–1234yf or purchase or use R–1234yf MVAC servicing equipment. Rather, existing EPA regulations that are not modified by this action already require stakeholders who chose to service or repair vehicles that use R–1234yf to use certified equipment.

[9] SAE J2210 (HFC–134a (R–134a) Recovery/Recycling Equipment for Mobile Air-Conditioning Systems (Cancelled Nov. 2010)). SAE J1732 (HFC–134a (R–134a) Refrigerant Recovery Equipment for Mobile Automotive Air-Conditioning Systems (Stabilized Nov. 2011)).

[10] The commenter also referenced a final rule published under CAA section 608 (85 FR 14150, March 11, 2020). EPA notes that the March 2020 final rule issued by the agency's National Recycling and Emission Reduction Program is focused on refrigerant management requirements and the scope of EPA's authority under CAA section 608, which is a distinct statutory provision from CAA section 609.

Regarding the definition of ''properly using'' at 40 CFR 82.32(e), this final rule updates the definition of properly using to add the three standards being incorporated by reference at 40 CFR 82.36(a)(8)–(10) to the list of recommended service procedures and practices for the containment of refrigerant. As mentioned above, the agency is not mandating in this final rule that service shops purchase or use R–1234yf MVAC servicing equipment.

VI. 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. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0247. This rule contains no new requirements for reporting or recordkeeping.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action adopts and incorporates by reference three existing technical standards developed by SAE for equipment that recovers, recycles, and/or recharges R–1234yf in MVACs. We have therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any Federal mandates or unfunded mandates 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.

F. Executive Order 13132: Federalism

This action does not have federalism implications. 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.

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The EPA has not conducted a separate analysis of risks to infants and children associated with this final rule.

I. 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.

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards for the servicing of MVACs that use R–1234yf. The EPA is incorporating by reference three industry consensus standards: SAE J2843 ''R–1234yf (HFO–1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems''; SAE J2851 ''Recovery Equipment for Contaminated R–134a or R–1234yf Refrigerant from Mobile Automotive Air-Conditioning Systems''; and SAE J3030 ''Automotive Refrigerant Recovery/Recycling/Recharging Equipment Intended for use with Both R–1234yf and R–134a.'' Specifically, these standards are:

1. *SAE J2843: R–1234yf (HFO–1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems (revised July 2019).* This standard applies to refrigerant handling equipment intended for use with R–1234yf refrigerant from MVACs only. It establishes requirements for equipment used to recover, recycle, and/or recharge R–1234yf. This standard is available at *https://www.sae.org/standards/content/j2843_201907.*

2. *SAE J2851: Recovery Equipment for Contaminated R–134a or R–1234yf Refrigerant from Mobile Automotive Air-Conditioning Systems (revised February 2015).* This standard applies to recovery equipment that removes contaminated R–134a and/or R–1234yf from MVACs. This standard is available at *https://www.sae.org/standards/content/j2851_201502.*

3. *SAE J3030: Automotive Refrigerant Recovery/Recycling/Recharging Equipment Intended for use with Both R–1234yf and R–134a (revised July 2015).* This standard establishes the minimum equipment requirements for recovery/recycling/recharging equipment intended for use with both R–1234yf and R–134a in a common refrigerant circuit that has been directly removed from, and is intended for reuse, in MVACs. This standard is available at *https://www.sae.org/standards/content/j3030_201507.*

These standards may be purchased by mail at: SAE Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096–0001; by telephone: 1–877–606–7323 in the United States or 1–724–776–4970 outside the United States or in Canada. The cost of SAE J2843, SAE J2851, and SAE J3030 is $81 each for an electronic or hard copy. The cost of obtaining these standards is not a significant financial burden for manufacturers of MVACs and purchase is not required for those selling, installing, or servicing MVACs. Therefore, the EPA concludes that SAE J2843, SAE J2851, and SAE J3030 are reasonably available.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action adopts and incorporate by reference three technical standards for equipment that recovers, recycles, and/or recharges R–1234yf in MVACs. The proper use of servicing equipment prevents the intentional release of refrigerant to the environment and decreases the amount of such emissions to which all affected populations are exposed.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 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 82

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Recycling, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Jane Nishida,

Acting Administrator.

For the reasons set out in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart B—Servicing of Motor Vehicle Air Conditioners

■ 2. Add § 82.31 to read as follows:

§ 82.31 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You can obtain the material from the sources listed in paragraph (b) of this section. You may inspect a copy of the approved material at U.S. EPA's Air and Radiation Docket; EPA West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(b) SAE International. SAE Customer Service, 400 Commonwealth Drive, Warrendale, PA 15096–0001 USA; Email: *CustomerService@sae.org;* Telephone: 1–877–606–7323 (U.S. and Canada only) or 1–724–776–4970 (outside the U.S. and Canada); internet address: *http://store.sae.org/dlabout.htm.*

(1) SAE J2843™. R–1234yf (HFO–1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems. Revised July 2019; IBR approved for § 82.36(a).

(2) SAE J2851. Recovery Equipment for Contaminated R–134a or R–1234yf Refrigerant from Mobile Automotive Air Conditioning Systems. Revised February 2015; IBR approved for § 82.36(a).

(3) SAE J3030. Automotive Refrigerant Recovery/Recycling/Recharging Equipment Intended for use with Both R–1234yf and R–134a. Issued July 2015 (*Note:* SAE J3030 heading says ''revised''); IBR approved for § 82.36(a).

■ 3. Amend § 82.32 by revising paragraph (e)(1) to read as follows:

§ 82.32 Definitions.

* * * * *

(e) * * *

(1) Properly using means using equipment in conformity with the regulations set forth in this subpart, including but not limited to the prohibitions and required practices set forth in § 82.34, and the recommended service procedures and practices for the containment of refrigerant set forth in § 82.36(a) and appendices A, B, C, D, E, and F to this subpart, as applicable. In addition, this term includes operating the equipment in accordance with the manufacturer's guide to operation and maintenance and using the equipment only for the controlled substance for which the machine is designed. For equipment that extracts and recycles refrigerant, properly using also means to recycle refrigerant before it is returned to a motor vehicle air conditioner or MVAC-like appliance, including to the motor vehicle air conditioner or MVAC-like appliance from which the refrigerant was extracted. For equipment that only recovers refrigerant, properly using includes the requirement to recycle the refrigerant on-site or send the refrigerant off-site for reclamation.

* * * * *

■ 4. Amend § 82.36 by revising paragraph (a)(7) and adding paragraphs (a)(8) through (10) to read as follows:

§ 82.36 Approved refrigerant handling equipment.

(a) * * *

(7) Equipment that recovers but does not recycle refrigerants other than CFC–12, HFC–134a, and HFO–1234yf must meet the standards set forth in appendix F of this subpart (Recover-Only Equipment that Extracts a Single, Specific Refrigerant Other Than CFC–12, HFC–134a, or HFO–1234yf).

(8) Equipment that recovers and recycles HFO–1234yf refrigerant from MVACs and recharges MVAC systems with HFO–1234yf refrigerant must meet the standards set forth in SAE J2843 (incorporated by reference, see § 82.31).

(9) Equipment that recovers but does not recycle contaminated HFC–134a and/or HFO–1234yf refrigerant from MVACs must meet the standards set forth in SAE J2851 (incorporated by reference, see § 82.31).

(10) Equipment that recovers, recycles, and recharges both HFO–1234yf and R–134a from MVACs must meet the standards set forth in SAE J3030 (incorporated by reference, see § 82.31).

* * * * *

■ 5. Amend § 82.38 by revising paragraph (a) to read as follows:

§ 82.38 Approved independent standards testing organizations.

(a) Any independent standards testing organization may apply for approval by the Administrator to certify equipment as meeting the standards in § 82.36(a) and appendices A, B, C, D, E, and F to this subpart, as applicable. The application shall be sent to: MVACs Recycling Program Manager, Stratospheric Protection Division (6205T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

* * * * *

■ 6. Amend § 82.40 by revising paragraph (a)(2)(i) to read as follows:

§ 82.40 Technician training and certification.

(a) * * *

(2) * * *

(i) The standards established for the service and repair of MVACs and MVAC-like appliances as set forth in § 82.36(a) and appendices A, B, C, D, E, and F to this subpart. These standards relate to the recommended service procedures for the containment of refrigerant, extraction equipment, extraction and recycle equipment, and

the standard of purity for refrigerant in motor vehicle air conditioners.

* * * * *

■ 7. Amend appendix F to subpart B of part 82 by revising the appendix heading, the ''Foreword'' section, sections 1 and 3.1, and the ''Application'' section to read as follows:

Appendix F to Subpart B of Part 82—Standard for Recover-Only Equipment That Extracts a Single, Specific Refrigerant Other Than CFC–12, HFC–134a, or R–1234yf

Foreword

These specifications are for equipment that recovers, but does not recycle, any single, specific automotive refrigerant other than CFC–12, HFC–134a, or HFO–1234yf, including a blend refrigerant.

1. Scope

The purpose of this standard is to provide equipment specifications for the recovery of any single, specific refrigerant other than CFC–12, HFC–134a, or HFO–1234yf, including a blend refrigerant, which is either (1) to be returned to a refrigerant reclamation facility that will process the refrigerant to ARI Standard 700–93 or equivalent new product specifications at a minimum, or (2) to be recycled in approved refrigerant recycling equipment, or (3) to be destroyed. This standard applies to equipment used to service automobiles, light trucks, and other vehicles with similar air conditioning systems.

* * * * *

3.1 The equipment must be able to extract from a mobile air conditioning system the refrigerant other than CFC–12, HFC–134a, or HFO–1234yf to which the equipment is dedicated.

* * * * *

Application

The purpose of this standard is to provide equipment specifications for the recovery of any refrigerant other than CFC–12, HFC–134a, or HFO–1234yf for return to a refrigerant reclamation facility that will process it to AHRI Standard 700 (or for recycling in other EPA approved recycling equipment, in the event that EPA in the future designates a standard for equipment capable of recycling refrigerants other than CFC–12, HFC–134a, or HFO–1234yf).

* * * * *

[FR Doc. 2021–05363 Filed 3–23–21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2019–0582; FRL–10014–89–Region 4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

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

DATES: This rule is effective May 24, 2021, unless the EPA receives adverse comment by April 23, 2021. If the EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 2021.

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

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: singh.ben@epa.gov.* Include the Docket ID No. EPA–R04–UST–2019–0582 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2019–0582, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *https://www.epa.gov/dockets/commenting-epa-dockets.*

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

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

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

FOR FURTHER INFORMATION CONTACT: Ben Singh, RCRA Programs and Cleanup Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8922; email address: *singh.ben@epa.gov.* Please contact Ben Singh by phone or email for further information.

SUPPLEMENTARY INFORMATION:

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

A. Why are revisions to state UST programs necessary?

States that have received final approval from the EPA under section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain a UST program that is no less stringent than the Federal program. When the EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Most commonly, states must change their programs because of changes to the EPA's regulations in title 40 of the Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their UST programs and these changes must then be approved by the EPA.

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

On April 16, 2019, in accordance with 40 CFR 281.51(a), South Carolina submitted a complete program revision application (State Application) seeking approval of changes to its UST Program. The program revisions requested in the State Application correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: A transmittal letter from the Governor requesting approval; a description of the program and operating procedures; a demonstration of the State's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency; an Attorney General's Statement; [1] and copies of all relevant State statutes and regulations. The EPA has reviewed the State Application and has determined that the revisions to South Carolina's UST Program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the South Carolina UST Program continues to provide adequate enforcement of compliance. Therefore, the EPA grants South Carolina final approval to operate its UST Program with the revisions described in the State Application, and as outlined below. The South Carolina Department of Health and Environmental Control (DHEC) is the lead implementing agency for the UST Program in South Carolina, except in Indian country as noted below in Section I.I.

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

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

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

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

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

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

F. For what has South Carolina previously been approved?

Effective September 27, 2002, the EPA granted final approval for South Carolina to administer the State UST Program in lieu of the Federal UST program (67 FR 55160, August 28, 2002). Effective June 9, 2014, the EPA incorporated by reference and codified the federally approved South Carolina UST Program (79 FR 19830, April 10, 2014). As a result of the EPA's approval, these provisions became subject to the EPA's corrective action, inspection, and enforcement authorities under RCRA sections 9003(h), 9005, and 9006, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions.

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

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

As more fully described below, the State has made changes to its UST Program to reflect the 2015 Federal Revisions. These changes are included in South Carolina's UST Rules at S.C. Code Ann. Regs. 61–92, as amended, effective May 26, 2017. The EPA is proposing to approve the State's changes because they are no less stringent than the Federal UST program, and because the revised South Carolina UST Program will continue to provide for adequate enforcement of compliance as required by 40 CFR 281.11(b) and part 281, subparts C and D, after this approval.

DHEC continues to be the lead implementing agency for the UST

[1] 40 CFR 281.24(a) requires an Attorney General's statement, but allows it to be signed by independent legal counsel for the state rather than the Attorney General, provided that such counsel has full authority to independently represent the state agency in court on all matters pertaining to the state UST program. The South Carolina DHEC General Counsel has represented that it has such authority and has submitted such statement as part of the State Application.

Program in South Carolina. DHEC has broad statutory and regulatory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases, under the State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44–2–10 to 44–2–150, and the South Carolina UST Rules at S.C. Code Ann. Regs. 61–92 (2017).

As part of the State Application, South Carolina has identified the following specific authorities for compliance monitoring, required pursuant to 40 CFR 281.40: S.C. Code. Ann. section 44–2–50(C); and S.C. Code. Ann. Regs. 61–92, section 280.34.

As part of the State Application, South Carolina has identified the following specific authorities for enforcement response, required pursuant to 40 CFR 281.41: S.C. Code. Ann. section 44–2–140; and S.C. Code. Ann. Regs. 61–92, sections 280.26 and 280.301.

As part of the State Application, South Carolina has identified the following specific authorities enabling public participation in the State enforcement process, required pursuant to 40 CFR 281.42: Rule 24(a)(2) of the South Carolina Rules of Civil Procedure; and S.C. Code. Ann. Regs. 61–92, section 280.67. Further, through a Memorandum of Agreement between DHEC and the EPA, effective October 12, 2018, the State maintains procedures for receiving and ensuring proper consideration of information about violations submitted by the public, and DHEC will not oppose citizen intervention when permissive intervention is allowed by statute, rule or regulation. As required pursuant to 40 CFR 281.43, through the Memorandum of Agreement between the State and the EPA, the State agrees to furnish the EPA, upon request, any information in State files obtained or used in the administration of the State UST Program.

To qualify for final approval, revisions to a state's UST program must be no less stringent than the 2015 Federal Revisions. In the 2015 Federal Revisions, the EPA addressed UST systems deferred in the 1988 UST regulations, and added, among other things: New operation and maintenance requirements; secondary containment requirements for new and replaced tanks and piping; operator training requirements; and a requirement to ensure UST system compatibility before storing certain biofuel blends. In addition, the EPA removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems. South Carolina adopted all of the required 2015 Federal Revisions at S.C. Code. Ann. Regs. 61–92 (2017).

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

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

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

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

Statutory Broader in Scope Provisions

i. S.C. Code Ann. section 44–2–40, insofar as it provides for the creation of a SUPERB Account and SUPERB Financial Responsibility Fund (collectively, ''State funds''), and establishes criteria for accessing the funds.

ii. S.C. Code Ann. section 44–2–60, insofar as it requires registration, beyond the Federal notification requirements, and the payment of registration fees for underground storage tanks.

iii. S.C. Code Ann. section 44–2–75, insofar as it provides for a means of establishing insurance pools to demonstrate financial responsibility.

iv. S.C. Code Ann. section 44–2–90, insofar as it refers to interest collected on State funds and the sunset date of the environmental impact fee.

v. S.C. Code Ann. section 44–2–110, insofar as it establishes criteria for qualified expenditure of funds from the SUPERB Account.

vi. S.C. Code Ann. section 44–2–115, insofar as it regulates eligibility for the SUPERB Account.

vii. S.C. Code Ann. section 44–2–120, insofar as it establishes requirements for site rehabilitation contractors.

viii. S.C. Code Ann. section 44–2–130, insofar as it establishes criteria for compensation from the SUPERB Account.

ix. S.C. Code Ann. section 44–2–150, insofar as it establishes provisions for the creation and operations of a SUPERB Advisory Committee.

Regulatory Broader in Scope Provisions

i. S.C. Code Ann. Regs. 61–92, section 280.10(d), insofar as it requires UST systems to be permitted or registered with DHEC.

ii. S.C. Code Ann. Regs. 61–92, section 280.20, as to the text ''obtain permits in accordance with section 280.23 and'' in the introductory paragraph, and the text ''on the Permit to Operate application form in accordance with section 280.23'' in (f), insofar as they require UST systems to be permitted by DHEC.

iii. S.C. Code Ann. Regs. 61–92, sections 280.22(h) and (i), insofar as they require UST systems to be registered with DHEC.

iv. S.C. Code Ann. Regs. 61–92, section 280.23, insofar as it requires UST systems to be permitted by DHEC.

v. S.C. Code Ann. Regs. 61–92, sections 280.101(b) through (e), insofar as they establish regulations for the administration of the State funds.

vi. S.C. Code Ann. Regs. 61–92, section 280.300, insofar as it gives DHEC broad authority to grant variances that may be beyond the scope of that allowed by the Memorandum of Agreement between DHEC and EPA.

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

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

II. Codification

A. What is codification?

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

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

In 2014, the EPA incorporated by reference and codified South Carolina's approved UST Program at 40 CFR 282.90 (79 FR 19830, April 10, 2014). Through this action, the EPA is amending 40 CFR 282.90 to incorporate by reference and codify South Carolina's revised UST Program.

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

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

Specifically, in 40 CFR 282.90(d)(1)(i), the EPA is incorporating by reference the EPA-approved South Carolina UST Program. Section 282.90(d)(1)(ii) identifies the State's statutes and regulations that are part of the approved State UST Program, although not incorporated by reference for enforcement purposes. Section 282.90(d)(1)(iii) identifies the State's statutory and regulatory provisions that are broader in scope or external to the State's approved UST Program and therefore not incorporated by reference. Section 282.90(d)(2) through (5) reference the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are part of the State Application and part of the UST Program under subtitle I of RCRA.

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

The EPA retains the authority under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions, to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved states. If the EPA determines it will take such actions in South Carolina, the EPA will rely on Federal sanctions, Federal inspection authorities, and other Federal procedures rather than the State analogs. Therefore, the EPA is not incorporating by reference South Carolina's procedural and enforcement authorities, although they are listed in 40 CFR 282.90(d)(1)(ii).

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

As discussed in section I.H. above, some provisions of the State's UST Program are not part of the federally approved State UST Program because they are broader in scope than the Federal UST program. Where an approved state program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of enforcement in part 282. *See* 40 CFR 281.12(a)(3)(ii). In addition, provisions that are external to the State UST Program approval requirements, but included in the State Application, are also being excluded from incorporation by reference in part 282. For reference and clarity, 40 CFR 282.90(d)(1)(iii) lists the South Carolina statutory and regulatory provisions which are broader in scope than the Federal program or external to state UST program approval requirements. These provisions are, therefore, not part of the approved UST Program that the EPA is codifying. Although these provisions cannot be enforced by the EPA, the State will continue to implement and enforce such provisions under State law.

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

The EPA's actions merely approve and codify South Carolina's revised UST Program requirements pursuant to RCRA section 9004, and do not impose additional requirements other than those imposed by State law. For that reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because UST program approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with RCRA;
- Do not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994); and

• Do not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. The rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective May 24, 2021.

List of Subjects in 40 CFR Parts 281 and 282

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

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

Dated: February 26, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

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

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

■ 2. Revise § 282.90 to read as follows:

§ 282.90 South Carolina State-Administered Program.

(a) *History of the approval of South Carolina's program.* The State of South Carolina (South Carolina or State) is approved to administer and enforce an underground storage tank (UST) program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA or Act), as amended, 42 U.S.C. 6991 *et seq.* The State's Underground Storage Tank Program (UST Program), as administered by the South Carolina Department of Health and Environmental Control (DHEC), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the South Carolina UST Program on August 28, 2002 and it was effective on September 27, 2002. A subsequent program revision was approved by EPA and became effective May 24, 2021.

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

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

(d) *Final approval.* South Carolina has final approval for the following elements of its UST Program submitted to EPA and approved effective September 27, 2002, and the program revisions approved by EPA effective on May 24, 2021:

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The South Carolina materials cited in this paragraph (d)(1)(i), and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may access copies of the South Carolina statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from the South Carolina State Register, 223 Blatt Building, 1105 Pendleton Street, Columbia, South Carolina 29201; Phone number: (803) 212–4500; website: *https://www.scstatehouse.gov/.* You may inspect all approved material at EPA Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303; Phone number: (404) 562–9900; or the National Archives and Records Administration (NARA), email: *fedreg.legal@nara.gov,* website: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(A) ''South Carolina Statutory Requirements Applicable to the Underground Storage Tank Program,'' dated September 9, 2020.

(B) ''South Carolina Regulatory Requirements Applicable to the Underground Storage Tank Program,'' dated September 9, 2020.

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

(A) *State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44–2–10 to 44–2–150 (2010).* (*1*) Section 44–2–50(A) and (C) Regulations to be promulgated. Insofar as it provides for the promulgation of regulations for the implementation, compliance monitoring, and enforcement of the UST Program.

(*2*) Section 44–2–70(B) Financial responsibility of underground storage tank owners and operators. As to the first sentence, insofar as it provides for the promulgation of regulations specifying financial responsibility requirements and for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from operating an underground storage tank.

(*3*) Section 44–2–140 Enforcement of chapter or department order, penalties for violations. Insofar as it provides for compliance monitoring and enforcement of the underground storage tank requirements.

(B) *South Carolina Underground Storage Tank Control Regulations, R. 61–92 (2017).* (*1*) Section 280.26, Delivery Prohibitions. Insofar as it identifies specific authorities for

enforcement response and delivery prohibition requirements.

(*2*) Section 280.67, Public Participation. Insofar as it identifies specific authorities for enabling public participation in the corrective action process.

(*3*) Section 280.301, Violations and Penalties. Insofar as it provides for notice to violators, assessment of penalties, criminal prosecution, and appeals under the SUPERB Act.

(*4*) Section 280.302, Appeals. Insofar as it provides for appeal of any determination by DHEC under the provisions of S.C. Code Ann. Regs. 61–72, Procedures for Contested Cases, and the State Administrative Procedures Act.

(C) *SUPERB Site Rehabilitation and Fund Access Regulations, R.61–98.* Insofar as it contains requirements for site rehabilitation for releases from underground storage tanks, access to the SUPERB Account, and certification of site rehabilitation contractors.

(D) *South Carolina Rules of Civil Procedure, Rule 24(a)(2), Intervention.* Insofar as it provides for public participation in the State enforcement process.

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

(A) *State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44–2–10 to 44–2–150 (2010).*

(*1*) Section 44–2–40, insofar as it provides for the creation of a SUPERB Account and SUPERB Financial Responsibility Fund (collectively, ''State funds''), and establishes criteria for accessing the funds.

(*2*) Section 44–2–50(B), is external insofar as it contains obligations on the State agency, not a regulated entity.

(*3*) Section 44–2–60, insofar as it requires registration, beyond the Federal notification requirements, and the payment of registration fees for underground storage tanks.

(*4*) Section 44–2–75, insofar as it provides for a means of establishing insurance pools to demonstrate financial responsibility.

(*5*) Section 44–2–90, insofar as it refers to interest collected on State funds and the sunset date of the environmental impact fee.

(*6*) Section 44–2–110, insofar as it establishes criteria for qualified expenditure of funds from the SUPERB Account.

(*7*) Section 44–2–115, insofar as it regulates eligibility for the SUPERB Account.

(*8*) Section 44–2–120, insofar as it establishes requirements for site rehabilitation contractors.

(*9*) Section 44–2–130, insofar as it establishes criteria for compensation from the SUPERB Account.

(*10*) Section 44–2–150, insofar as it establishes provisions for the creation and operations of a SUPERB Advisory Committee.

(B) *South Carolina Underground Storage Tank Control Regulations, R.61–92 (2017).* (*1*) Section 280.10(d), insofar as it requires UST systems to be permitted or registered with DHEC.

(*2*) Section 280.20, as to the text ''obtain permits in accordance with section 280.23 and'' in the introductory paragraph, and the text ''on the Permit to Operate application form in accordance with Section 280.23'' in (f), insofar as they require UST systems to be permitted by DHEC.

(*3*) Sections 280.22(h) and (i), insofar as they require UST systems to be registered with DHEC.

(*4*) Section 280.23, insofar as it requires UST systems to be permitted by DHEC.

(*5*) Sections 280.101(b) through (e), insofar as they establish regulations for the administration of the State funds.

(*6*) Section 280.240(b), is external insofar as it contains obligations on the State agency, not a regulated entity.

(*7*) Section 280.300, insofar as it gives DHEC broad authority to grant variances that may be beyond the scope of that allowed by the Memorandum of Agreement between DHEC and EPA.

(2) *Statement of legal authority.* The Attorney General's Statement and Statement of Independent Legal Counsel, signed by DHEC's General Counsel in lieu of the Attorney General on March 27, 2019, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Adequate Enforcement Procedures'' submitted on April 16, 2019, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted on April 16, 2019, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

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

■ 3. Amend appendix A to part 282 by revising the entry for South Carolina to read as follows:

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

* * * * *

South Carolina

(A) The statutory provisions include:

State Underground Petroleum Environmental Response Bank Act (SUPERB) of 1988, S.C. Code Ann. sections 44–2–10 to 44–2–150 (2010):

44–2–10 Short Title.

44–2–20 Definitions.

44–2–70 Financial responsibility of underground storage tank owners and operators; except the first sentence of (B).

44–2–80 Release of regulated substance; containment, removal, and abatement.

(B) The regulatory provisions include:

South Carolina Underground Storage Tank Control Regulations, R.61–92 (2017):

280.10 Applicability, except (d).

280.11 Installation requirements for partially excluded UST systems.

280.12 Definitions.

280.20 Performance standards for new UST systems, except for the text ''obtain permits in accordance with section 280.23 and'' in the introductory paragraph, and the text ''on the Permit to Operate application form in accordance with Section 280.23'' in (f).

280.21 Upgrading of Existing UST systems.

280.22 Notification requirements, except (h) and (i).

280.24 Testing.

280.25 Secondary containment required.

280.30 Spill and overfill control.

280.31 Operation and maintenance of corrosion protection.

280.32 Compatibility.

280.33 Repairs allowed.

280.34 Reporting and recordkeeping.

280.35 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.

280.36 Periodic operation and maintenance walkthrough inspections.

280.40 General requirements for all UST systems.

280.41 Requirements for petroleum UST systems.

280.42 Requirements for hazardous substance UST systems.

280.43 Methods of release detection for tanks.
280.44 Methods of release detection for piping.
280.45 Release detection recordkeeping.
280.50 Reporting of suspected releases.
280.51 Investigation due to off-site impacts.
280.52 Release investigation and confirmation steps.
280.53 Reporting and cleanup of spills and overfills.
280.60 General.
280.61 Initial response.
280.62 Initial abatement measures and site check.
280.63 Initial site characterization.
280.64 Free product removal.
280.65 Investigations for soil and groundwater cleanup.
280.66 Corrective action plan.
280.70 Temporary closure.
280.71 Permanent closure and changes-in-service.
280.72 Assessing the site at closure or change-in-service.
280.73 Applicability to previously closed UST systems.
280.74 Closure records.
280.90 Applicability.
280.91 Compliance dates.
280.92 Definition of terms.
280.93 Amount and scope of required financial responsibility.
280.94 Allowable mechanisms and combinations of mechanisms.
280.95 Financial test of self-assurance.
280.96 Guarantee.
280.97 Insurance and risk retention group coverage.
280.98 Surety Bond.
280.99 Letter of credit.
280.100 Use of state-required mechanism [Reserved].
280.101 State fund or other state assurance, except (b) through (e).
280.102 Trust Fund.
280.103 Standby trust fund.
280.104 Local government bond rating test.
280.105 Local government financial test.
280.106 Local government guarantee.
280.107 Local government fund.
280.108 Substitution of financial assurance mechanisms by owner or operator.
280.109 Cancellation or non-renewal by a provider of financial assurance.
280.110 Reporting by owner or operator.
280.111 Recordkeeping.
280.112 Drawing on financial assurance mechanisms.
280.113 Release from the requirements.
280.114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.
280.115 Replenishment of guarantees, letters of credit, or surety bonds.
280.116 Suspension of enforcement [Reserved].
280.200 Definitions.
280.210 Participation in management.
280.220 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located.
280.230 Operating an underground storage tank or underground storage tank system.
280.240 General requirement for all UST systems, except (b).
280.241 Designation of Class A, B, and C operators.
280.242 Requirements for operator training.
280.243 Timing of operator training.
280.244 Retraining.
280.245 Documentation.
280.250 Definitions.
280.251 General Requirements.
280.252 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.

(C) Copies of the South Carolina statutes and regulations that are incorporated by reference are available from the South Carolina State Register, 223 Blatt Building, 1105 Pendleton Street, Columbia, South Carolina 29201; Phone number: (803) 212–4500; website: *https://www.scstatehouse.gov/.*

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2018–0033; FXES111300000900000 178 FF09E42000]

RIN 1018–BC65

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the California Condor in the Pacific Northwest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), are establishing a nonessential experimental population (NEP) of the California condor (*Gymnogyps californianus*) in the Pacific Northwest, under section 10(j) of the Endangered Species Act of 1973, as amended (Act). Establishment of this NEP will facilitate reintroduction of California condors to the region and provide for allowable legal incidental taking of the California condor within a defined NEP area. The geographic boundaries of the NEP include northern California, northwest Nevada, and Oregon. The best available data indicate that reintroduction of the California condor into the Pacific Northwest is biologically feasible and will promote the conservation of the species.

DATES: This final rule is effective April 23, 2021.

ADDRESSES: This final rule is available on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2018–0033 and on our website at *https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=B002.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are also available for public inspection at *http://www.regulations.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Jesse D'Elia, Pacific Regional Office, U.S. Fish and Wildlife Service, Ecological Services, 911 NE 11th Ave., Portland, OR 97232; telephone 503–231–6131. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a population of a threatened or endangered species may be designated as an experimental population prior to its reintroduction. Experimental populations can only be designated by issuing a rule.

What this document does. This rule will designate California condors *(Gymnogyps californianus)* reintroduced to the Pacific Northwest as a nonessential experimental population on the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h) with a rule issued under section 10(j) of the Act (hereafter referred to as a ''10(j) rule'') at 50 CFR 17.84.

The basis for our action. Based on the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that releasing the California condors into the Pacific Northwest, with the regulatory provisions in this final rulemaking, will further the conservation of the species. The nonessential experimental population status is appropriate for the reintroduced population because we have determined that it is not essential to the continued existence of the species in the wild.

In making our finding that this action will further the conservation of the species, we evaluate any possible adverse effects on extant California condor populations, the likelihood that any such experimental population will become established and survive in the foreseeable future, the relative effects that establishment of an experimental

population will have on the recovery of the species, and the extent to which the reintroduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area. This rule also identifies the boundaries of the experimental population, explains our rationale for why the population is not essential to the continued existence of the species in the wild, describes management restrictions, protective measures, or other special management concerns of that population, and explains a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species. In June 2016, a Memorandum of Understanding (MOU) was finalized to assess the potential to recover California condors in the Pacific Northwest and to work to seek funding to support that effort if it proved feasible. The MOU currently has 16 signatories.

Peer review and public comment. We sought comments from three objective and independent specialists (and received two responses) to ensure that our findings are based on scientifically sound data, assumptions, and analyses. As directed by the Service's Peer Review Policy dated July 1, 1994 (59 FR 34270) and a recent memo updating the peer review policy for listing and recovery actions (August 22, 2016), we invited these peer reviewers to comment on our proposal. We also considered all comments and information received during the public comment period. All comments received during the peer review process and the public comment period have either been incorporated throughout this rule or addressed below in Summary of Comments and Recommendations.

Background

On April 5, 2019, we published in the **Federal Register** a proposed rule to establish a nonessential experimental population of the California condor in the Pacific Northwest (84 FR 13587). The comment period on the proposed rule was open for 60 days, through June 4, 2019. Comments on the proposed rule are addressed below under Summary of Comments and Recommendations.

Statutory and Regulatory Framework

The 1982 amendments to the Endangered Species Act of 1973 (ESA or Act; 16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for the designation of reintroduced populations of listed species as ''experimental populations.'' Under section 10(j) of the Act and our regulations in title 50 of the Code of Federal Regulations (at 50 CFR 17.81), the Service may designate as an experimental population a population of endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historic range, absent a finding by the Director of the Service in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed).

Before authorizing the release as an experimental population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find by regulation that such release will further the conservation of the species. 50 CFR 17.81(b). In making such a finding the Service uses the best scientific and commercial data available to consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see Donor Stock Assessment and Effects on Donor Population, below);

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future (see Likelihood of Population Establishment and Survival and Addressing Causes of Extirpation, below);

(3) The relative effects that establishment of an experimental population will have on the recovery of the species (see Relationship of NEP to Recovery Efforts, below); and

(4) The extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see Likelihood of Population Establishment and Survival, below; National Park Service (NPS) 2018, entire).

Further, as set forth in 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) must provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s) (see Location and Boundaries of the NEP, below);

(2) A finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see Is the Experimental Population Essential or Nonessential?, below);

(3) Management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations (see Management, below); and

(4) A process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species (see Monitoring and Evaluation, below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, 10(j) rules represent an agreement between the FWS, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of an experimental population.

Under 50 CFR 17.81(f), the Secretary may designate critical habitat as defined in section 3(5)(A) of the Act for an essential experimental population. No designation of critical habitat will be made for nonessential populations. In those situations where a portion or all of an essential experimental population overlaps with a natural population of the species during certain periods of the year, no critical habitat will be designated for the area of overlap unless implemented as a revision to critical habitat of the natural population for reasons unrelated to the overlap itself.

Any population determined by the Secretary to be an experimental population will be treated as if it were listed as a threatened species for purposes of establishing protective regulations with respect to that population. The protective regulations adopted for an experimental population will contain applicable prohibitions, as appropriate, and exceptions for that population. 50 CFR 17.82.

Any experimental population designated for a listed species (1) determined not to be essential to the survival of that species and (2) not occurring within the National Park

System or the National Wildlife Refuge System will be treated for purposes of section 7 (other than paragraph (a)(1) thereof) as a species proposed to be listed under the Act as a threatened species. 50 CFR 17.83(a).

Any experimental population designated for a listed species that either (1) has been determined to be essential to the survival of that species or (2) occurs within the National Park System or the National Wildlife Refuge System as now or hereafter constituted will be treated for purposes of section 7 of the Act as a threatened species. Notwithstanding the foregoing, any biological opinion prepared pursuant to section 7(b) of the Act and any agency determination made pursuant to section 7(a) of the Act will consider any experimental and nonexperimental populations to constitute a single listed species for the purposes of conducting the analyses under such sections. 50 CFR 17.83(b).

Legal Status

We listed the California condor as an endangered species under the Endangered Species Preservation Act of 1966 (ESPA) on March 11, 1967 (32 FR 4001, March 11, 1967). This list was later codified in part 17 of title 50 in the U.S. Code of Federal Regulations (35 FR 16048, October 13, 1970). With the passage of the Endangered Species Act of 1973 (ESA), those species previously listed in the Code of Federal Regulations were directly incorporated into the Lists of Endangered and Threatened Wildlife and Plants under the ESA, found at 50 CFR 17.11 and 17.12. In October 1996, we designated a nonessential experimental population of the California condor in portions of northern Arizona, southern Utah, and southern Nevada (61 FR 54044, October 16, 1996). Therefore, the California condor is currently listed as an endangered species wherever it is found, except in portions of northern Arizona, southern Utah, and southern Nevada, where it is considered a nonessential experimental population.

The California condor is protected by the State of California under both the State Endangered Species Act and the California Fish and Game Code as a Fully Protected species. It is also listed as a Sensitive Species under California Forest Practice Rules. In September of 2018, the State of California passed legislation that allows the California Department of Fish and Wildlife (CDFW) to consider the content of any final rules under section 10(j) of the Federal Endangered Species Act for the California condor. This legislation (AB2640) allows the Director of the CDFW to evaluate the final rule, and exempt take associated with the rule if the Director finds the Service's final rule would further the conservation of the species.

If we are compelled, through court order or other means, to change the California condor's NEP status to essential, threatened, or endangered, FWS would meet with the parties to the 2016 MOU to discuss options on how to proceed, including the option of attempting to capture and relocate all condors in the wild within the NEP. We would make a fact-specific assessment of how to proceed based on the information at that time, including whether there was general agreement from the MOU partners that the condors should remain in the wild. Changes in the legal status and/or removal of this population of California condors will be made in compliance with any applicable Federal rulemaking and other procedures.

Biological Information

Species Description

The California condor is one of seven New World vultures in the Cathartidae family and the only extant species in the genus *Gymnogyps* (Amadon 1977, pp. 413–414; Johnson et al. 2016, pp. 193, 197). It is the largest of the North American vultures and the largest soaring land bird on the continent with a wingspan of approximately 9.5 feet (ft) (2.9 meters (m)) (Koford 1953, p. 3; Finkelstein et al. 2015, Introduction, Appearance). Males weigh slightly more than females (average weight of 19.4 pounds (lb) (8.8 kilograms (kg)) for males and 17.9 lb (8.1 kg) for females) and have slightly higher wing loading, but otherwise there are no obvious differences in coloration or morphology between the sexes (Finkelstein et al. 2015, Appearance). California condors exhibit age-related coloration changes (Koford 1953, p. 5; Snyder and Snyder 2000, pp. 14–19). Adults have black feathers except for prominent white underwing linings and edges of the upper secondary coverts. The head and neck of adults are mostly naked and range in color from yellowish to reddish orange on the head to gray, yellow, orange, and red on the neck (Koford 1953, pp. 4–5). The heads of juveniles up to 3 years old are grayish-black, and their wing linings are variously mottled or completely dark (Koford 1953, p. 5; Snyder and Snyder 2000, pp. 14–19). During the third year, the head develops yellow coloration, and the dark juvenile underwing linings are gradually replaced with white adult feathers (Snyder and Snyder 2000, pp. 15, 17). By the time individuals are 5 or 6 years of age, they are essentially indistinguishable from adults, but full development of the adult wing patterns may not be completed until 7 or 8 years of age (Snyder and Snyder 2000, pp. 15, 17; Finkelstein et al. 2015, Appearance).

As obligate scavengers (*i.e.,* relying entirely on dead animals for food), California condors have a number of physical and physiological adaptations that accommodate their highly specialized diet, including: (1) Large size, which is important for maintaining low-energy soaring flight, and enduring long periods without food; (2) excellent eyesight, which helps condors efficiently find food; (3) hooked bills and long necks, which allow condors to access muscle tissue deep within a carcass and to rip pieces of meat from a carcass; and (4) resistance to bacterial toxins, which is necessary for species that rely on carcasses (Snyder and Snyder 2005, pp. 7–31).

Historical Range

During the Pleistocene Epoch, the California condor was broadly distributed in North America from southern British Columbia to Baja California, and eastward throughout the southern United States and northern Mexico to Florida (Koford 1953, p. 7; Brodkorb 1964, pp. 253–254; Messing 1986, pp. 284–285; Steadman and Miller 1987, p. 423; Snyder and Snyder 2005, p. 6; D'Elia and Haig 2013, p. 17). The extent of its distribution along the east coast of North America during the late Pleistocene also extended to the boreal forests of upstate New York (Steadman and Miller 1987, pp. 416–423). The disappearance of the California condor from its prehistoric range in North America east of the Rocky Mountains occurred about 10,000–11,000 years ago coinciding with the late-Pleistocene extinction of the North American megafauna (Emslie 1987, pp. 768–770; Steadman and Miller 1987, pp. 422–425). Analysis of stable isotopes in bone collagen suggests that the California condor's persistence along the Pacific coast at the end of the Pleistocene was at least partially due to the availability of marine-derived carrion (Chamberlain et al. 2005, p. 16710; Fox-Dobbs et al. 2006, p. 688).

Historical observations of California condors indicate that they were widespread and locally abundant from southern British Columbia, Canada, to Baja California, Mexico, during Euro-American colonization (Koford 1953, pp. 8–19; Wilbur 1978, pp. 13, 72–85; Snyder and Snyder 2005, pp. 4–5; D'Elia and Haig 2013, pp. 38–59). At that time they were apparently restricted to the

area west of the Rocky Mountains, with most observations occurring from the Cascade Mountains and Sierra Nevada to the coast (Snyder and Snyder 2000, p. 12; D'Elia and Haig 2013, pp. 38–59). California condor population declines and range contractions were concurrent with Euro-American settlement of the West, with condors disappearing from the Pacific Northwest in the early 1900s (D'Elia and Haig 2013, pp. 58–59), and from Baja California by the end of the 1930s (Wilbur and Kiff 1980, entire). By the middle of the 20th century, the species was reduced to about 150 individuals limited to the mountains of southern California (Snyder and Snyder 2000, pp. 81–82), and at the time we formally classified them as an endangered species in 1967, the population had further declined to an estimated 60 condors (Snyder and Snyder 2000, pp. 82–83). Most probable causes of their historical decline include: (1) Secondary poisoning from predator removal campaigns, (2) direct persecution, and (3) lead poisoning from spent ammunition that fragmented in animals condors later fed upon (D'Elia and Haig 2013, pp. 77–122).

Captive Breeding, Reintroduction Efforts, and Current Range

Due to concerns over the few remaining California condors and the population's continued downward trend, beginning in 1983, we took all condor eggs from the wild to the San Diego Wild Animal Park and Los Angeles Zoo for artificial incubation to form a captive flock (Snyder and Hamber 1985, p. 378; Snyder and Snyder 2000, pp. 278–293). By taking all wild eggs and inducing multiple clutches and annual nesting, the productivity of the population was increased several-fold, allowing the captive population to grow rapidly (Snyder and Hamber 1985, p. 378). However, with the sudden loss of several wild California condors in 1984 and 1985, it became necessary for us to capture the remaining wild individuals to ensure the genetic viability of the species and enhance the chances of the captive-breeding program's success (Snyder and Snyder 2000, pp. 298–304). By 1987, the California condor existed only in captivity, having suffered a severe population bottleneck and loss of genetic diversity (Ralls and Ballou 2004, p. 225; D'Elia et al. 2016, pp. 707–708). Thus, the conservation of the species was dependent upon captive breeding and releases back into the wild.

We first released captive-reared California condors in 1992 in southern California, but because of behavioral problems exhibited by these individuals we returned them all to captivity in early 1995 (Snyder and Snyder 2000, pp. 344–345). We reinitiated releases of captive-reared and formerly wild California condors in southern California in 1995, and additional release sites were established in northern Arizona in 1996, central California near Big Sur in 1997, Sierra de San Pedro Mártir in Baja California, Mexico, in 2002, Pinnacles National Park (formerly Pinnacles National Monument) in 2003, and in the mountains near San Simeon, California, in 2015. Currently, these release sites comprise four general release areas (central California, southern California, Baja California, and Arizona/Utah) in three condor populations (a population in central and southern California—where individuals from each release area occasionally intermingle—and independent populations in northern Arizona/southern Utah and Baja California). The California condor is currently absent from the northern portion of its historical range and remains reliant on the release of captive-bred individuals for population growth (USFWS 2013, p. 14).

As of December 2019, there were 337 California condors in the wild, divided among the four release areas: Central and southern California (200 condors); northern Arizona and southern Utah (98 condors); and the Sierra de San Pedro Mártir release site in Baja California (39 condors) (USFWS 2019a, p. 1). There were also 181 California condors in captivity (USFWS 2019a, p. 1) distributed among release sites, zoos, and four captive-breeding facilities in the United States. Breeding facilities include the Peregrine Fund's World Center for Birds of Prey, the Oregon Zoo's Jonsson Center for Wildlife Conservation, the Los Angeles Zoo, and the San Diego Zoo's Safari Park.

Despite population growth, the total number of wild California condors is still relatively small and the species requires intensive management for survival, including: (1) Monitoring a large proportion of condors in the wild to track resource use, identify behavioral problems, and detect mortalities; (2) biannual trapping for health screening, to test blood samples for lead, inoculate for West Nile virus, and to attach or replace wing tags and transmitters; (3) taking injured or poisoned condors back into captivity temporarily to administer treatment; and (4) nest observations and interventions to maximize productivity in the wild (Walters et al. 2010, pp. 972, 976, 982–984; USFWS 2017, pp. 5–19).

Habitat Use and Movement Ecology

Along with our conservation partners, we have reintroduced California condors to a variety of habitats, including coastal mountains, old-growth forests, desert cliffs, and temperate montane shrublands and grasslands. Within these habitats they can have enormous home ranges (Meretsky and Snyder 1992, p. 321; Hunt et al. 2007, pp. 84–87; Romo et al. 2012, pp. 43–47; Rivers et al. 2014a, pp. 496–498) and often use different portions of their range for nesting and foraging (Meretsky and Snyder 1992, p. 329; Snyder and Snyder 2000, pp. 140–147; D'Elia et al. 2015, p. 96). Estimates of home range size varied among release sites (95 percent confidence intervals for southern California: 173,295–282,760 acres (ac) (70,130–114,429 hectares (ha)); Pinnacles National Park: 86,825–174,266 ac (35,137–70,523 ha); and Big Sur: 42,613–90,495 ac (17,245–36,622 ha)), probably as a result of geography, food availability (Rivers et al. 2014a, pp. 496–497, 500), years since the release program started, and flock size (Bakker et al. 2017, p. 100).

Nesting habitat is generally characterized by steep, rugged terrain (Wilbur 1978, p. 7; Snyder and Snyder 2000, p. 18; D'Elia et al. 2015, pp. 94–95). Within these areas, nests have been documented in various types of rock formations including crevices, overhung ledges, potholes, and in cavities or broken tops of giant sequoia (*Sequoia giganteus*) (Snyder et al. 1986, pp. 235–236) or coast redwood (*Sequoia sempervirens*) trees (Burnett et al. 2013, pp. 478–479). Breeding adults segregate themselves into nesting territories, rarely crossing into the nesting territories of other California condors (Finkelstein et al. 2015, Behavior). California condors will generally use the same nesting territory in successive years as long as pairs remain intact, but will often switch nesting sites within that territory, regardless of whether they fail or succeed in their nesting efforts (Snyder et al. 1986, p. 236).

California condors roost communally along rocky outcrops, steep canyons, and in tall trees or snags near foraging grounds, water sources, and nests (Koford 1953, pp. 35–36; Snyder and Snyder 2000, p. 167). California condors select roosts that offer winds or thermals favorable for soaring flight (Poessel et al. 2018, pp. 48–50), good peripheral visibility, where there is a long unobstructed space for taking off downhill and for approaching the roost in flight, and areas where there is some protection from high winds (Koford 1953, pp. 35–36). There may be trade-

offs for condors between these factors and selecting roosts that provide protection from predators (Poessel et al. 2018, pp. 48–50). While at a roost, condors devote considerable time to preening, sunning, and other maintenance activities (Snyder and Snyder 2000, p. 24).

California condors are obligate scavengers and obligate soaring birds, making them reliant on the availability of sufficient food resources and upward air movement (Ruxton and Houston 2004, p. 434, Poessel et al. 2018, pp. 36–37). Foraging habitats generally have high landscape productivity, moderate to steep slopes, sparse vegetation, and updrafts necessary to keep California condors aloft (Rivers et al. 2014b, pp. 7–9; D'Elia et al. 2015, p. 96). In coastal areas condors show strong selection for beaches, likely because of the relative abundance of marine mammal carcasses (Rivers et al. 2014b, p. 8). A feature of carrion is that dead animals are highly dispersed and ephemeral (Ruxton and Houston 2004, p. 433). This exclusive food resource has resulted in evolutionary pressure for condors to be large, obligate soaring birds that forage socially (Ruxton and Houston 2004, p. 433). Social foraging means the population is particularly susceptible to contaminated food resources, as a contaminated carcass can poison a large number of individuals in a single feeding (Green et al. 2004, pp. 796–800; Green et al. 2008, pp. 6–9; Finkelstein et al. 2012, p. 11453; D'Elia and Haig 2013, p. 87).

As birds with a large wingspan that use soaring and gliding flight, California condors can move long distances while expending minimal energy (see Pennycuick 1969, pp. 542–545; Ruxton and Houston 2004, p. 435; Horvitz et al. 2014, pp. 676–678). Examples of exceptional flight distances include: California condor movements between the central and southern California flocks—a distance of approximately 150 miles (mi) (241 kilometers (km)) (*e.g.,* USFWS 2017, pp. 20–21); a condor released at Pinnacles National Park flying to the southern Sierra Nevada and back—a one-way distance of approximately 249 mi (400 km) (USFWS, unpublished data); a condor released in the Sierra de San Pedro Mártir in Baja California, Mexico, traveling north to San Diego County, a distance of approximately 140 mi (225 km) (Romo et al. 2012, p. 44); and observations of condors released in northern Arizona traveling to southern Wyoming, Colorado, and New Mexico, at distances of approximately 340 mi (547 km), 400 mi (643 km), and 325 mi (523 km), respectively. In addition, GPS telemetry data are now revealing that California condors in southern California are beginning to regularly travel 93–124 mi (150–200 km) away from core use areas (USFWS unpublished data). As the populations continue to grow, the number of long-distance flights is likely to increase.

To date, nests have been concentrated in a relatively limited area around release sites when compared to exceptional flight distances. The farthest nest documented from release sites in each release area is approximately 47 mi (76 km) in central California, 57 mi (92 km) in southern California, 62 mi (100 km) in Arizona/Utah, and 15 mi (24 km) in Baja California. We expect that as flock size grows the population will continue to expand and nest sites will eventually be located farther from release sites.

Seasonal shifts in movements to foraging grounds occur with changes in food availability, and perhaps as a result of social factors (*e.g.,* traditional movements) (Meretsky and Snyder 1992, p. 328; Snyder and Snyder 2000, pp. 145–147; Hunt et al. 2007, pp. 85–87). There are also seasonal changes in home range, with larger home ranges in late summer and fall compared to late fall and early winter (Rivers et al. 2014a, pp. 497, 499).

Life Cycle

Breeding California condors form pairs in late fall or early winter and visit various potential nest sites within their nesting territory in January and February (Finkelstein et al. 2015, Breeding). Once pairs are formed they tend to stay together year-round for multiple years until one member of the pair dies (Snyder and Snyder 2000, p. 19). However, the death of one member of a pair can trigger a chain reaction with multiple pairs switching mates. This situation can occur because each California condor that loses its mate represents a potentially more desirable mate to individuals of lower rank in the social hierarchy of the flock. Breeding California condors lay a single egg between late January and early April (Finkelstein et al. 2015, Breeding). The egg is incubated by both parents and hatches after approximately 53–60 days (Snyder and Snyder 2000, p. 19). California condor pairs that lose their egg early in the breeding season (February through mid-April) will generally lay a replacement egg (Snyder and Hamber 1985, p. 377). When a replacement egg is lost, it has occasionally been followed by a third egg (Finkelstein et al. 2015, Breeding).

Both parents share responsibilities for feeding the nestling (Snyder and Snyder 2000, p. 19). Feeding, via regurgitation, usually occurs daily for the first 2 months, then gradually diminishes in frequency (Snyder and Snyder 2000, p. 197). As early as 6 weeks after hatching, California condor chicks leave the nest cavity but remain in the vicinity of the nest where they are fed by their parents (Snyder and Snyder 2000, p. 201). The chick takes its first flight at about 5.5 to 6 months of age but does not become fully independent of its parents until the following year (Snyder and Snyder 2000, pp. 201–202). Parents occasionally continue to feed a fledgling even after it has begun to make longer flights to foraging grounds (Koford 1953, p. 103; Snyder and Snyder 2000, pp. 202–203).

Because of the long period of parental care, it was formerly assumed that successful California condor pairs normally nested every other year (Koford 1953, pp. 22–23). However, this pattern can vary, depending mostly on the time of year that the nestling fledges. If a nestling fledges relatively early (in late summer or early fall), its parents can nest again in the following year, but late fledging may inhibit nesting in the following year (Snyder and Hamber 1985, pp. 377–378; Snyder and Snyder 2000, p. 19).

Once independent, juvenile California condors often associate with one another on the foraging grounds and join adults and other juveniles at communal roosts (Finkelstein et al. 2015, Breeding). In a study of the remnant wild population in southern California (1982–1987), Meretsky and Snyder (1992, pp. 324–325; 329–330) found that California condors in their first 2 years after fledging were generally limited to natal nest areas and adjacent foraging areas. Older juveniles would forage more widely, but it was not until age 4 or 5 that condors visited virtually all foraging and nesting areas within a given population. However, more recent data from the reintroduced populations show that fledglings under 1 year of age can be fully integrated into the flock, foraging hundreds of miles from natal or release areas and by 2 years of age some individuals have demonstrated the ability to cover the flock's entire range (USFWS, unpublished data). This difference between the remnant wild population in the 1980s and the current population is likely a product of the larger size of the current population, and the larger number of older California condors that are available to serve as mentors to recently fledged condors.

Demography and Threats

California condors are long-lived birds. In captivity, they can live more than 50 years. Average age of first breeding is 8 years and 6 months for females and 9 years and 10 months for males (Mace 2017, pp. 240, 243). The oldest known breeding female was 38 years old (Mace 2017, p. 239).

Slow maturation and low reproductive rates in California condors mean that low mortality rates are necessary for populations to be stable or to grow (Mertz 1971, p. 448; Verner 1978, pp. 19–21; Meretsky et al. 2000, pp. 960–961). Demographic models indicate that annual adult mortality rates certainly must average <10 percent annually to achieve stable or increasing populations (Verner 1978, pp. 19–21; Meretsky et al. 2000, p. 961), and likely need to be <5 percent (Meretsky et al. 2000, p. 961; Cade 2007, p. 2129; Woods et al. 2007, p. 65; Walters et al. 2010, p. 974). Estimates of mortality rates in the first decade of the release program in California and Arizona—when individuals treated for lead poisoning were considered mortalities—were between 17–35 percent, greatly exceeding the mortality rates needed for a self-sustaining stable population (Meretsky et al. 2000, p. 963). Currently, populations in the wild are only viable as a result of augmentation through ongoing captive-breeding and release efforts, in concert with intensive monitoring and management to reduce mortality (Green et al. 2008; Finkelstein et al. 2012, p. 11452; USFWS 2013, pp. 27–30).

The primary threat to the viability of the California condor is lead poisoning from spent ammunition left in gut-piles or carcasses of animals that condors feed upon (Meretsky et al. 2000, p. 963; Church et al. 2006, p. 6148; Cade 2007, entire; Woods et al. 2007, pp. 73–75; Green et al. 2008, p. 9; Walters et al. 2010, pp. 993–994; Finkelstein et al. 2012, pp. 11452–11453; Rideout et al. 2012, pp. 108–109; Kelly et al. 2015, pp. 395–398; Bakker et al. 2017, pp. 101–103). Without intensive management of the impacts from this threat, which includes periodic trapping for health exams, monitoring blood lead levels, and treatment if necessary, the wild populations would trend toward extinction (Woods et al. 2007, p. 65; Green et al. 2008, pp. 8–9; Walters et al. 2010, pp. 993–994; Finkelstein et al. 2012, pp. 11452–11453). In the absence of this threat, California condor populations would likely grow and become self-sustaining, without the need for intensive management (Woods et al. 2007, p. 65; Green et al. 2008, p. 9; Finkelstein et al. 2012, pp. 11452–11453).

Several laws and voluntary programs to reduce the threat from lead ammunition have been enacted. The State of California instituted a restriction on the use of lead ammunition for hunting within the range of the California condor in southern and central California in July 2008 (Ridley-Tree Condor Preservation Act 2008, entire). The geographic and regulatory scope of this restriction was expanded with Assembly Bill 711 (AB711) that was signed into law in October 2013. AB711 amended section 3004.5 of the California Fish and Game Code, relating to hunting. The law, which restricts the use of lead ammunition for taking wildlife, has been phased in; the final phase, which went into effect in July 2019, enacted a State-wide ban of lead ammunition for all take of wildlife. Nevada also has a regulation mandating the use of nontoxic shot on all Nevada Wildlife Management Areas (NAC 503.183). In addition to these laws and regulations, voluntary lead-reduction programs are in place in California, Oregon, Nevada, Arizona, and Utah. While these voluntary programs vary by State, actions under these programs have included: (1) Surveys to understand attitudes toward lead reduction; (2) outreach to hunters at sportsman shows, hunter education classes, and in the field; (3) coordination with hunter constituency groups; and (4) targeted vouchers for free non-lead ammunition (Sieg et al. 2009, pp. 344–345; Chase and Rabe 2015, pp. 2–3; AGFD 2017, web page, UDWR 2017, web page, ODFW 2017, web page; *Huntingwithnonlead.org* 2017, web page; *nonleadpartnership.org*, web page).

Other threats to California condors include: Rangeland conversion, wind energy development, collision with and electrocution from powerlines, predation, disease, inadequacy of existing regulatory mechanisms, shooting, microtrash ingestion, pesticides, and habituation to humans. A full description of these threats, and efforts to abate them, are provided in our most recent status review for the California condor (USFWS 2013, entire).

Relationship of NEP to Recovery Efforts

We published a California condor recovery plan in 1974 (USFWS 1975, entire), and revised the plan in 1980 (USFWS 1980, entire), 1984 (USFWS 1984, entire), and 1996 (USFWS 1996, entire). To date, recovery efforts have focused on reintroduction and recovery in the southern portion of the species' historical range (see *Captive Breeding and Reintroduction Efforts,* above). Recovery criteria for removing the California condor from the endangered species list were not provided in the 1996 revision to the recovery plan, as its primary focus was keeping the species from going extinct. At the time the 1996 revised recovery plan was written, there were only 17 California condors in the wild (USFWS 1996, p. 9) and we could not anticipate at that time all actions that would be necessary for full recovery. We recently clarified why it remains impracticable to incorporate delisting criteria for the California condor in the recovery plan (USFWS 2019b). The overall strategy for recovery outlined in the 1996 recovery plan was to focus on: (1) Increasing reproduction in captivity to provide condors for release, (2) the release of condors to the wild, (3) minimizing condor mortality rates, (4) maintaining habitat for condor recovery, and (5) implementing condor information and education programs (USFWS 1996, p. 21). While the recovery plan did not have delisting criteria, it included as criteria for reclassifying (or downlisting) to a threatened species an objective of establishing at least two, preferably more, self-sustaining disjunct wild populations in order to reduce the risks to the overall population and to facilitate genetic and demographic management (USFWS 1996, p. 24).

The 1996 revised recovery plan does not provide specific recovery targets or actions for the Pacific Northwest, but our 1980 recovery plan recommended surveys of Oregon, Washington, and California to identify potential habitat for future releases into unoccupied portions of the historical range (USFWS 1980, p. 50). Recent habitat modeling has revealed large areas of potentially suitable nesting, roosting, and feeding habitats in the Pacific Northwest (D'Elia et al. 2015, pp. 95–96). Although criteria for full recovery were not provided in our latest recovery plan revision (USFWS 1996, entire), increasing the global population of the California condor and expanding its geographic distribution among the ecosystems it once occupied are, on first principles, consistent with efforts to recover the species.

An existing population model based on published demographic rates (Bakker et al. 2017, entire) was used to simulate statewide California condor population growth in California over the next 30 years (2018–2048), assessing scenarios with and without the allocation of some of the available captive-bred individuals to a new geographically disjunct flock (Bakker and Finkelstein 2018, entire).

Preliminary model simulations suggest that allocating captive-bred individuals to a new, geographically disjunct flock, which is expected to have lower survival and reproduction compared to the existing flocks, may reduce the population growth of condors in California. Model simulations reinforce the importance of increasing captive chick production and releases to the wild. The number of chicks produced in the captive program and released to the wild has been variable over time, but continues to drive population growth in the wild due to the high chick and juvenile survivorship attainable in a captive setting and to ongoing mortality in the free-flying population combined with the long generational gap between chick stage and breeding age (approximately 6–8 years) in California condors (Finkelstein et al. 2012, entire; Bakker et al. 2017, entire; Bakker and Finkelstein 2018, entire).

The California Condor Recovery Program is currently proposing to increase the number of captive-produced condors for release into the wild, and would continue to allocate the number of chicks to each release site necessary to maintain positive population growth at each site, to the extent practicable. Continuing to grow the wild population of California condors while reestablishing them in an unoccupied portion of their historical range is consistent with our overall strategy to recover the species.

In summary, an NEP in the Pacific Northwest would establish an additional population in the United States, beyond the minimum of two populations envisioned for downlisting to a threatened species. This population would contribute to the conservation of the species by: Further reducing the risk that any one catastrophic event would affect a large proportion of the species (increasing the population redundancy); increasing the global population of the species (increasing resiliency); and expanding the geographic distribution of the species among ecosystems (increasing representation by expanding the ecological settings in which the species occurs).

Is the experimental population essential or nonessential?

When we establish experimental populations under section 10(j) of the Act, we must determine whether such a population is essential to the continued existence of the species in the wild. Although the experimental population will contribute to the recovery of the California condor, it is not essential to the continued existence of the species in the wild. California condors are currently distributed among three disjunct and intensively managed populations in California, Arizona and Utah, and Baja California, Mexico. Management at these sites includes: Monitoring individuals with VHF or GPS/GSM transmitters; biannual trapping for health screenings; vaccination for West Nile virus; aversive conditioning to power poles prior to release; chelation therapy to treat California condors with elevated blood-lead levels; and nest observations, entries, and interventions to maximize productivity in the wild (Walters et al. 2010, pp. 972, 976, 982–984; Romo et al. 2012, pp. 28–56; Southwest Condor Review Team 2017, pp. 4–21; USFWS 2017, pp. 5–19). In addition, there are ongoing releases of captive California condors into each of the wild populations. Releases are carefully coordinated among sites to ensure a healthy age structure, sex ratio, and distribution of founder genomes (Ralls and Ballou 2004, pp. 221–225). As a result of the continued release of condors and the coordination among release programs, the populations of wild California condors continue to grow (USFWS 2018, p. 6).

In addition to the three wild populations, there is also a sizable captive population at four breeding facilities, which are distributed in California, Oregon, and Idaho (see Biological Information, above). The breeding facilities are secure facilities, not open to the public, where California condors are kept under 24-hour surveillance by condor keepers or video cameras. The captive population is given extensive care and deaths and injuries are rare, with a captive annual survival rate after the first month of life of 0.989 percent (95 percent confidence interval: 0.984–0.992) (Bakker et al. 2017, p. 97). In addition, the geographic separation of the four breeding facilities protects the captive population from the threat of extinction due to a single catastrophic event.

The captive population was formed with only 13 apparent genetic founders that comprised three genetic clans (Geyer et al. 1993, p. 573; Ralls and Ballou 2004, p. 219; Pryor and Ralls 2016, p. 3). Genetic management, which includes control of all captive matings, has been implemented to minimize the loss of remaining genetic diversity and ensure this remaining genetic diversity is well distributed among the captive-breeding facilities and reintroduction sites (Ralls et al. 2000, p. 152; Ralls and Ballou 2004, p. 226; Pryor and Ralls 2016, p. 2). California condors released within the experimental population would come from a mixture of the founder clans represented in the captive population and would not represent a unique genetic lineage of California condors. Therefore, loss of this population would not represent a substantive change in the genetic diversity or genetic viability of the worldwide population of California condors.

This reintroduction project will further the recovery of the California condor by attempting to establish another wild population in an unoccupied portion of the species' historical range. However, for the reasons stated above, California condors released into the Pacific Northwest are not essential to the survival of the species in the wild. Therefore, as required by 50 CFR 17.81(c)(2), we find that the experimental population is not essential to the continued existence of the species in the wild, and we designate the experimental population in the Pacific Northwest as a nonessential experimental population (NEP).

Location and Boundaries of the NEP

Section 10(j) of the Act requires that an experimental population be geographically separate from wild populations of the same species. Considering a number of factors (as described in detail, below), we drew the NEP area to include a portion of northern California, northwestern Nevada, and all of Oregon. The western boundary of the NEP is the Submerged Lands Act boundary line along the Pacific coast. The southern boundary of the NEP is formed by an east-west line from California's Submerged Lands Act boundary to Hare Creek; Hare Creek from the Pacific Ocean to its junction with California State Route 1; north to the junction of State Route 1 and State Route 20; east along California State Route 20 to where it meets Interstate 80; and Interstate 80 from its intersection with California State Route 20 to U.S. Route 95 in Nevada. The eastern boundary of the NEP is U.S. Route 95 in Nevada to the State boundary of Oregon and then east and north along Oregon's southern and eastern boundaries, respectively. The northern boundary of the NEP is the northern State boundary of Oregon. All highway boundaries are inclusive of the entire highway right of way. See map below and in the Environmental Assessment (NPS et al. 2018, Figure 2, p. 5).

The last California condor specimen collected within the NEP area was in 1892 along Yager Creek in Humboldt County, California (Smith 1916, p. 205; D'Elia and Haig 2013, pp. 39–46). Although there were a few reported

California condor sightings up to 1925 in the area we are proposing to designate an NEP, since then there have been no credible sightings of condors in the wild in this area, or anywhere north of San Francisco (D'Elia and Haig 2013, pp. 58–59). Given that almost all released California condors are actively tracked with electronic transmitters, we are confident that there are no wild condors in the NEP.

The location of the primary reintroduction site is the Bald Hills of Redwood National Park, an area proximal to suitable nesting and feeding habitat. Ten potential release sites were identified by the Yurok Tribe, and the primary release site was selected following careful consideration of site suitability, logistics, threats and hazards, cultural resources, and suitability of adjacent lands (Yurok Tribe 2020, entire). The release site will be situated in grassland habitat above a redwood forest with sufficient topography to allow young California condors to more easily achieve flight. Redwood forests in the vicinity of the release site, as well as proximal mountain ranges (Oregon Coast Range, Klamath-Siskiyou Mountains, and the Northern Coast Range in California) are expected to provide ample roosting and nesting habitat. Inland valleys and mountaintop prairies, in conjunction with a proximal coastline, are expected to provide a mixture of sufficient terrestrial and marine feeding areas and food resources. Landscape-scale models indicate that the amount and characteristics of habitat in the region compare favorably to other portions of the historical range (D'Elia et al. 2015, pp. 95–96).

In defining the experimental population boundary, we attempted to encompass the area where the population is likely to become established in the foreseeable future. The term ''foreseeable future'' appears in the Act in the statutory definition of ''threatened species.'' The Act does not define the term ''foreseeable future.'' However, our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term foreseeable future extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. While we use the term ''foreseeable future'' here in a different context (to establish boundaries for identification of the experimental population), we apply a similar conceptual framework. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant effects of release and management of the species and to the species' likely responses in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors. For the purposes of this rule, we define the foreseeable future as approximately 20 years, the time horizon within which we can reasonably forecast California condor population expansion given the number of years of data we have on condor movements from release sites in southern and central California (25 years in southern California and 23 years central California). We expect that the contribution of the experimental population toward recovery of the California condor will be evident during this time span, although we recognize that establishing a self-sustaining population of condors in the region may take longer given the species' extremely low reproductive rates. We established the experimental population boundary large enough to account for expansion over time as the introduced population begins to breed in the wild, and to assist in identifying any individuals belonging to the NEP. When possible, we used recognizable features on the landscape, legal land descriptions, or administrative boundaries to demark this experimental population boundary. We included the entire State of Oregon to ensure that any California condors originating from the releases at Redwood National Park and flying north into Oregon are recognized as members of the NEP and are covered by the NEP regulations.

Information we considered in drawing our NEP boundary included California condor movement data from existing release sites, and the location of the closest existing condor population, as well as input from State wildlife agencies. Movement data indicate that, after 20 years of releasing California condors, most individuals remain within approximately 124 mi (200 km) of their release site—although exceptional flight distances occasionally occur and the existing populations continue to expand as flock size increases. The closest California condor release site to the Bald Hills release site is at Pinnacles National Park, approximately 350 mi (563 km) to the south. The proposed release site is approximately 124 mi (200 km) from the nearest edge of the experimental population boundary, and the southern edge of the experimental population boundary is approximately 112 mi (180 km) from the northern extent of the closest endangered population of California condors. Thus, the southern boundary of the NEP approximates a mid-point between the nearest population in central California and the proposed release site at Redwood National Park. The farthest documented nesting pair of California condors from any release site since the inception of the captive-breeding program was approximately 62 mi (100 km), while most nests are within 47 mi (75 km) of their release site of origin. Given our definition of foreseeable future and the information from existing release sites, we anticipate that California condors initially released at Redwood National Park—with the exception of occasional exceptional flights—would remain within the experimental population boundary over the first 20 years of reintroductions. If a reintroduction of California condors in northern California is successful, it is possible that some individuals from the NEP may eventually move outside of the NEP area. It is also possible that California condors from the other California release sites may enter this NEP. We expect that these movements, if they occur, would be infrequent in the foreseeable future given the size of the NEP, the NEP's distance from existing populations, and observed California condor movements at other release areas over the last two decades. Further, we find that the interaction of individuals among the NEP and existing endangered populations and the merging of these populations are even more unlikely to occur in the foreseeable future given the distance between the populations and the small number of California condors likely to occupy the NEP. Even if California condors occasionally moved into or out of the NEP, the presence of one or a few individual dispersing condors would not constitute a ''population'' and any individuals dispersing into or out of the experimental population area would be treated as if they were part of the population at the location where they are found (*See Wyoming Farm Bureau Federation* v. *Babbitt,* 199 F.3d 1224, 1234–6, FN 5 (10th Cir. 2000) (finding the Secretary reasonably exercised his management authority under section 10(j) in defining the experimental wolf population by location)). Based on definitions of ''population'' used in other experimental population rules

(*e.g.,* 59 FR 60252, November 22, 1994 (gray wolves), 71 FR 42298, July 26, 2006 (Northern aplomado falcons)), we consider a population to require a minimum of two successfully reproducing California condor pairs over multiple breeding cycles. Using this definition of a population, the best available information suggests that the population of California condors formed from releases in Redwood National Park is likely to be wholly separate from other populations of California condors for the foreseeable future.

Likelihood of Population Establishment and Survival

The best available scientific data indicate that the reintroduction of California condors into suitable habitat in Redwood National Park is biologically feasible and would promote the conservation of the species. Along with our numerous recovery partners, we have over 25 years of experience breeding and releasing California condors into the wild at several release areas across various ecosystems. Release techniques are well established, as are protocols for managing released California condors. Based on our collective knowledge gained from these efforts, we anticipate California condors will become successfully established for the following reasons:

(1) Landscape-scale modeling indicates the NEP may have some of the most extensive nesting, roosting, and feeding habitats remaining within the historical range in California, Oregon, and Washington (D'Elia et al. 2015, pp. 95–97). California condors are habitat generalists and have been successfully reintroduced to a variety of ecosystems, including the mountain foothills of southern California, coastal forests of central California, high desert and canyon lands in northeastern Arizona and mountainous areas in Baja California, Mexico. This species is flexible in its diet, eating carrion of many different species of wildlife and livestock. Therefore, we do not anticipate climate change effects on habitat will negatively impact our ability to reestablish a population of this species in the Pacific Northwest.

(2) A site-specific habitat evaluation, which considered site suitability, logistics, threats and hazards, cultural resources, and suitability of adjacent lands, found the release site to have suitability ratings similar to existing release sites (Yurok Tribe 2020, entire).

(3) The causes for California condor extirpation from the region are either no longer active or are being addressed through a mixture of regulatory and proactive voluntary conservation measures (see Addressing Causes of Extirpation, below).

(4) The extent of effects of existing and proposed actions and activities within the NEP on the reintroduced population have been evaluated in an environmental assessment and are compatible with conservation of the California condor (NPS et al. 2018, entire).

(5) The reintroduced population will receive ongoing demographic support from a managed captive population and an active field monitoring and management program (Similar population support has allowed population growth and establishment at all of the other California condor release sites).

(6) The reintroduced population will be integrated with the California Condor Recovery Program to ensure that California condors released in Redwood National Park have an appropriate sex ratio and age-structure and include representatives of the founder genomes.

(7) There is broad institutional and partner support for a California condor reintroduction in Redwood National Park and Yurok ancestral territory.

On June 14, 2016, a Memorandum of Understanding between 16 parties was finalized. The purpose of the MOU was to formalize an agreement to assess the potential to recover California condors in the Pacific Northwest and to work to seek funding to support that effort if it proved feasible. Signatories to the MOU included the U.S. Fish and Wildlife Service, National Park Service (NPS), Bureau of Land Management, Yurok Tribe, California Department of Fish and Wildlife (CDFW), California Department of Parks and Recreation (CDPR), Oregon Department of Fish and Wildlife (ODFW), Oregon Zoo, Sequoia Park Zoo, Ventana Wildlife Society, Oakland Zoo, Pacific Gas and Electric Company, Pacific Power Company, Green Diamond Resource Company, and Hells Canyon Preservation Council. In 2018, the U.S. Forest Service also signed this MOU.

Based on all of these considerations, we anticipate that reintroduced California condors are likely to become established and persist within the NEP.

Addressing Causes of Extirpation

Investigating the causes for decline and extirpation of California condors is necessary to understand whether the threats have been sufficiently curtailed such that reintroduction efforts are likely to be successful. Evaluation of various hypotheses for the extirpation of California condors in the Pacific Northwest revealed that secondary poisoning related to predator control and extermination campaigns, direct persecution, and possibly lead poisoning from spent ammunition were the primary causes (D'Elia and Haig 2013, pp. 119–122). Two of these primary drivers of regional extirpation—predator poisoning and direct persecution—are no longer the primary threats to the California condor. According to the most comprehensive assessment of California condor deaths from 1992 through 2009, of the 76 deaths where a definitive cause was determined, there were no confirmed cases of secondary poisoning related to predator control (although there was one possible case involving glycol toxicosis) and only five cases of condors directly persecuted by gunshot or arrow (Rideout et al. 2012, pp. 108, 110).

Based on multiple lines of evidence, the primary threat to the recovery of the California condor is lead poisoning from spent ammunition (see Biological Information, above). Regulations banning lead ammunition for taking wildlife in California are in effect (see Biological Information, above). In addition, voluntary efforts to reduce lead exposure in wildlife are ongoing in Oregon and Nevada (see Biological Information, above). Finally, the reintroduction program will carefully monitor the population and conduct regular health checks to evaluate whether reintroduced California condors are being exposed to lead, the rate of exposure, and how this situation compares to other portions of the species' range. When necessary, California condors with elevated lead levels will be treated for lead poisoning. While the threat from lead ammunition is still present in the experimental population area, it is being addressed through a mixture of regulatory and proactive voluntary measures (see Biological Information, above); therefore, we will not request further regulation of lead ammunition for this experimental population. Sources of mortality will be carefully monitored, and if high mortality rates are preventing the establishment of a self-sustaining population, we will work with our conservation partners to implement additional voluntary measures to address threats, as we have at other California condor release sites. If a formal evaluation indicates the project is experiencing a 40 percent or greater mortality rate over multiple years or released California condors are not finding food on their own, serious consideration will be given to terminating the project.

Release Procedures

Release procedures at Redwood National Park are described in the environmental assessment (NPS et al. 2018, pp. 23–28) and would be similar to those at existing release sites. Procedures include: (1) The use of an onsite release pen where California condors are kept for a short period of time prior to release; (2) tracking of all released condors via telemetry (VHF and GPS/GSM); and (3) supplying condors with proffered food at the release site to allow for repeated trappings to monitor health and replace transmitters.

In general, a new cohort of captive-reared California condors will be released annually. The size of each release group will depend on the number of California condors in captivity available for release, but annual releases will likely involve up to six condors. California condors hatched in captivity will be raised by their parents or a condor look-alike hand puppet until they are approximately 6 months to 1 year old. They will then be placed with other California condors in a single large pen so they will form social bonds and undergo aversion training to power poles. The young California condors will be transported to the release site at Redwood National Park when they are approximately 1.5 to 2 years old. At the release site they will be placed in a flight pen and will remain there for an acclimation period of approximately 3 months.

Biologists will remain near the release pen, observing the young California condors' behavior and guarding against predators or other disturbance. After the initial adjustment period, California condors will be released from the flight pen. Any release candidate showing signs of physical or behavioral problems will not be released. A small area of NPS land will be closed to recreational activity to protect the California condors in or around the release facility. Carcasses will be provided at the release site, as supplemental food for newly released California condors, and as necessary, to attract condors for periodic trapping to check their health and swap-out transmitters.

All California condors released to the wild will be marked to allow identification of individuals. Current methods for doing this include placing electronic transmitters (*e.g.,* Argos, GSM (Global System for Mobile communication), and VHF transmitters) and wing markers on the wings of each California condor. The movements and behavior of each California condor will be monitored remotely using electronic transmitters and ground observations. Aerial tracking will be used to find lost individuals, and telemetry flights will be coordinated with the appropriate land management agencies. Our methods for identifying and monitoring individuals will be adaptive and may change as technology improves.

We will endeavor to maintain an even sex-ratio across a range of age-classes in the released population. Adult California condors unfit for release may be transported to the release site and kept in the pen as mentors for the acclimating cohort. Adjustments will be made in release cohort structure annually based on availability from captive-breeding facilities, genetics, sex-ratio, and age.

Donor Stock Assessment and Effects on Donor Population

The donor population for the reintroduction of California condors to Redwood National Park is the captive population of California condors. Although the captive population is located at four breeding facilities, these facilities cooperate to manage the entire wild population and captive population as a single entity, exchanging California condors and condor eggs among the facilities as necessary for population and genetic management (Ralls and Ballou 2004, p. 216).

As of December 2019, there were 181 California condors in captivity, and the size of the captive population has been relatively stable over the last 5 years, with end-of-year counts ranging from 167 to 181 during this time period (USFWS 2020, p. 5). With the assistance of the captive-breeding program, the total population of California condors increased from 370 condors in 2010 to 518 condors in 2019 (USFWS 2020, p. 5).

The donor population is carefully managed to ensure its long-term viability. Annual reviews of breeding, captive pairings, genetic health, and demographic factors are undertaken to ensure that captive-releases will not be detrimental to the stability of the captive flock. In addition, the captive-breeding program has capacity to pair additional captive California condors to increase reproductive output as they become available for breeding and to replace senescent condors. This could be done through multiple clutching, the use of non-breeding adults to serve as foster parents, and/or puppet rearing. Given the careful management of the donor population, the ability to increase its productivity, and the relatively small number of California condors that will be released at Redwood National Park annually, impacts to the donor population are expected to be negligible.

Management

The Service, NPS, and the Yurok Tribe will plan and manage the reintroduction of California condors at Redwood National Park. In addition, these agencies will carefully collaborate on releases, monitoring, condor care and behavior management, nest observations and interventions, coordination with landowners and land managers, public awareness, and other tasks necessary to ensure successful reintroduction of the species (Yurok Tribal, 2020, entire). A few specific management considerations related to the experimental population are addressed below.

(a) *Incidental Take:* Experimental population special rules contain specific prohibitions and exceptions regarding the taking of individual animals. These special rules are compatible with most routine human activities in the expected reestablishment area. Section 3(19) of the Act defines ''take'' as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' ''Incidental take'' is further defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. By adopting the 10(j) rule, most incidental take of California condors within the experimental population area is allowed, provided that the take is unintentional and not due to negligent conduct. However, habitat alteration (*e.g.,* removing trees, erecting structures, altering the nest structure or perches near the nest) or significant visual or noise disturbance (*e.g.,* tree felling, chainsaws, helicopter overflights, concrete cutters, fireworks, explosives) within 656 ft (200 m) of an occupied nest are prohibited. Excluded from this prohibition are emergency fuels treatment activities by Federal, State, and local agencies and Tribes to reduce the risk of catastrophic wildfire and emergency response services. Activities such as ranching and use of existing roads and trails within the 656-ft (200 m) buffer area around an occupied nest would not be considered a significant visual or noise disturbance. For the purposes of this rule, an occupied California condor nest is defined as a nest that is: (1) Attended by a breeding pair of condors, (2) occupied by a condor egg, or (3) occupied or attended by a <1-year-old condor.

The 656-ft (200 m) buffer is meant to serve to minimize visual and auditory impacts associated with human activities near nest sites. We chose a 656-ft (200 m) buffer after considering

buffer distances used for other raptors, which varied widely from 162 to 5,249 ft (50–1,600 m) (Richardson and Miller 1997, pp. 635–636; Romin and Muck 2002; USFWS 2007, p. 13), as well as past recommendations on buffer distances for California condor nests, which ranged from 0.5 to 1.5 mi (0.8–2.4 km) (Carrier 1973, pp. 71–73). This variation is likely the result of differences in environmental setting, species-specific responses, status of the species at the time of the recommended buffer, the nature of the disturbance, and the purpose of the buffer. It is important to note that historical California condor buffer distances of 0.5 to 1.5 mi (0.8–2.4 km) were based on anecdotal observations of a small number of condor nests in a declining population, and were necessarily conservative given the context of a nearly extinct species. The nest buffer for this rule is smaller than those earlier recommendations because of new information suggesting that nesting California condors may be more tolerant of disturbance than previously believed (see below). We also accounted for the fact that we are establishing this population as a nonessential experimental population. Therefore, our buffer distance around nests may be less conservative than our recommended buffer distances from nests where California condors are listed as endangered.

While species-specific responses to disturbance have not been formally studied for the California condor, observations in the 1950s and 1960s found that once a condor nest is started, it will not be abandoned unless the egg or chick is lost or the parents killed (Sibley 1969, p. 8). In addition, recent observations have documented successful nests within 0.5 mi (0.8 km) from active oil and gas operations and within 656 ft (200 m) of busy highways, hiking trails, and forestry practices such as operating chainsaws and chippers (A. Welch, NPS, pers. comm. 2015). One nest in a giant sequoia tree was successful despite being ''right on the edge'' of a clearcut operation (which ceased only 3 weeks prior to egg laying) and only about 656 ft (200 m) from, and in direct view of, an intermittently used dirt road (Snyder et al. 1986, p. 238).

Although the best available information suggests that California condors may not be as susceptible to disturbance as we thought in the 1960s–1980s, flushing of condors from nests has been documented due to disturbance and this activity has the potential to result in the egg breaking if the adult that is flushed is incubating the egg (Sibley 1969, p. 8). It is also possible that prolonged or repeated disturbances may cause nest failure (Sibley 1969, p. 15). To minimize the chances of nest or egg destruction and to preserve the structural integrity of habitat around nests while minimizing impacts to stakeholders, we are prohibiting habitat alteration or significant visual or noise disturbance within 656 ft (200 m) of occupied nests, with the exceptions noted above.

Existing and proposed activities and land uses surrounding the park that could potentially result in incidental take include wind power, utility transmission lines, mining, commercial timber production, ranching operations, and recreational activities (NPS et al. 2018). As noted above in our evaluation of the likelihood of population establishment and survival, we determined that the extent of effects of these activities within the NEP is compatible with conservation of the California condor. We expect few restrictions on these activities because most incidental take, including take associated with lead ingestion, is not prohibited. Some activities, such as those associated with habitat alteration or significant visual or noise disturbance within 656 ft (200 m) of an occupied nest, would be prohibited, as described above. However, because (1) the number of individuals initially released would be small, (2) California condors nest only on cliffs and in large tree cavities, (3) California condors tend to nest in less accessible and remote areas, and (4) the nests would be dispersed rather than concentrated in a particular area, we expect impacts to existing and proposed activities to be minimal (NPS et al. 2018). For the reasons stated above, it is unlikely that a condor would nest within areas with ongoing timber harvest operations, as only about 0.5 percent of harvestable timber on private lands within the study area are likely to contain suitable nesting trees. (NPS 2018). Once the condor chick has fledged, activities could resume, so any prohibitions on activities would be temporary in nature.

(b) *Interagency Consultation:* For purposes of section 7 of the Act, section 10(j) of the Act and our regulations (50 CFR 17.83) provide that nonessential experimental populations are treated as species proposed for listing under the Act except on National Park System and National Wildlife Refuge System lands, where they are treated as threatened species for the purposes of section 7 of the Act.

(c) *Special Handling:* USFWS, NPS, CDPR, CDFW, ODFW, Nevada Department of Wildlife (NDOW), and Yurok Tribe Natural Resource Division employees, and authorized agents acting on their behalf, may handle California condors for scientific purposes; to relocate or haze California condors to avoid conflict with human activities; for recovery purposes; to aid sick or injured California condors; and to salvage dead California condors. However, non-Service or other non-authorized personnel will need to acquire permits from the Service and the appropriate State or Tribal agency for these activities. Protocols for management and monitoring have been developed based on decades of experience from releasing condors in other areas (Yurok Tribe 2020, entire). Management and monitoring practices covered by these protocols include holding and releasing condors, monitoring, condor care and behavior management, nest observations and interventions, and other tasks necessary to ensure successful reintroduction of the species (Yurok Tribe 2020, entire). These protocols are designed to be adaptive and will be updated periodically as new information is acquired. Management and monitoring activities (see Yurok Tribe 2020) by any employee or agent of the Service, National Park Service, Yurok Tribe Natural Resource Division, CDPR, CDFW, NDOW, or ODFW who is designated and trained for such purposes, when acting in the course of official duties, will be exempt from take prohibitions.

(d) *Public Awareness and Cooperation:* During January 2017, in cooperation with the Yurok Tribe and Redwood National Park, we conducted five NEPA scoping meetings on the proposed action of reintroducing California condors to the Pacific Northwest, with the possibility of designating the reintroduced population as an NEP. We notified a comprehensive list of stakeholders of the meetings including affected Federal and State agencies, Native American Tribes, local governments, landowners, nonprofit organizations, and other interested parties. The comments we received were included in the formulation of alternatives considered in the NEPA process, and were considered in formulating proposed experimental population regulations for California condors within the NEP. We opened a 60-day comment period on our proposed regulations and EA, with another round of notifications to our comprehensive list of stakeholders. We also held public meetings in Portland, OR, Medford, OR, Klamath, CA, and Arcata, CA during the public comment period.

Monitoring and Evaluation

In cooperation with conservation partners, we will monitor movements, habitat use, and survival of all released California condors (NPS et al. 2018, pp. 23–28). Monitoring individual movements will allow field staff to identify potential problem-behaviors and to capture, relocate, or haze individual California condors for their safety. It will also allow us to detect any California condors that move outside of the experimental population area. Trapping will occur at the release site to allow for hands-on physical exams of individuals, replacement of faulty or aging transmitters, marking growing feathers, sampling feathers marked previously for lead history construction, and drawing blood for immediate testing of circulating blood lead levels and laboratory analysis for other contaminants of interest including, but not limited to, organophosphates and anticoagulant rodenticides. We will also attempt to determine the cause-of-death for all condor mortalities so we can look for emergent patterns and evaluate whether additional management interventions are necessary.

Annual reports that summarize monitoring and management activities will be collaboratively developed by the Yurok Tribe, NPS, and USFWS. We will evaluate the reintroduction program to determine whether to continue or terminate reintroductions every 5 years as part of our 5-year status review for the species.

Summary of Comments and Recommendations

In the proposed rule published on April 5, 2019 (84 FR 13587), we requested that all interested parties submit written comments on the proposal by June 4, 2019. In addition, in accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270) and updated guidance issued on August 22, 2016 (USFWS 2016, entire), we solicited peer review of our proposed rule from three knowledgeable individuals with scientific expertise in California condor ecology and management. We received responses from two of the peer reviewers. We also contacted appropriate Federal and State agencies, Tribes, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. In addition, on May 7–9, 2019, we held public meetings on the proposal in Portland, OR; Medford, OR; Arcata, CA; and, Klamath, CA.

We reviewed all comments received from the public, States, Tribes, and peer reviewers for substantive issues and new information regarding the establishment of an experimental population of California condors in the Pacific Northwest. Substantive comments are addressed in the following summary and have been incorporated into the final rule as appropriate. Any substantive changes incorporated into the final rule are summarized in the Summary of Changes from the Proposed Rule section, below.

Peer Review Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three knowledgeable individuals with scientific expertise in the species' biology, habitat, and raptor reintroductions in general. We received responses from two of the peer reviewers.

Both peer reviewers expressed support for the reintroduction with an associated 10(j) rule and agreed the action is likely to contribute to the conservation of the species. We incorporated specific updated information, comments, and suggestions from peer reviewers into the final rule as described in our responses, below.

Comment: One peer reviewer pointed out that, in our proposed rule, we stated that predator-poisoning was no longer a primary threat to condors. The reviewer notes that another form of poisoning, from anticoagulant rodenticides, remains a serious concern for wildlife in northern California and may pose a greater threat than in central and southern California condor populations.

Response: Predator-poisoning campaigns targeting large predators, like gray wolves and grizzly bears, are fundamentally different from the use of anticoagulant rodenticides that are primarily targeting small rodents. Nevertheless, we acknowledge that condors released in northern California may be exposed to rodenticides. We do not yet know the rate of exposure or whether this exposure will have a significant effect on condor demographic rates. It is currently unclear whether exposure rates will be higher, lower, or the same as observed in other parts of the condor's range, or whether their exposure rates will be comparable to exposure rates in other surrogate avian scavengers. As stated in the final rule, we will be conducting regular physical exams of condors and will attempt to determine cause-of-death for all condors that die and whose bodies are available for necropsy. If exposure to anticoagulant rodenticides is a significant factor affecting population growth, we will adapt our management accordingly.

Comment: One peer reviewer noted that, in our proposed rule, we mention the lead ammunition ban in California and the efforts being taken in Oregon to get hunters to voluntarily switch to non-lead alternatives. They asked whether Nevada, part of which is included in the NEP boundary, would be undertaking any outreach for voluntary effort to curb lead ammunition use.

Response: NDOW has implemented some voluntary measures to encourage hunters to switch to non-lead ammunition. In 2015, NDOW collaborated with the North American Non-lead Partnership to train hunter education instructors about non-lead ammunition. Non-lead ammunition outreach is now included in all hunter education training in Nevada. In addition, Nevada also has a regulation mandating the use of nontoxic shot on all Nevada Wildlife Management Areas (NAC 503.183).

Comment: One peer reviewer noted that the nest buffer of 200 m is somewhat less conservative that what has previously been recommended, but, given the evidence presented and the fact that this is being designated as an NEP, they thought that the buffer size was a reasonable starting point. This reviewer suggested providing a mechanism for expanding the buffer, under certain circumstances. The other peer reviewer stated that the 200 m buffer around nests seemed risky. They suggested starting with a larger buffer, with the option of making it smaller in certain circumstances.

Response: The 656 ft (200 m) buffer distance around occupied nests is intended to provide some protection to condor eggs and nestlings. We recognize that, in certain situations, noise or habitat disturbance outside of this buffer may cause harassment, or even harm, to an individual condor. We expect these instances to be extremely rare given the small number of anticipated breeding condors in the foreseeable future and the vastness of the landscape they will occupy. For the reasons articulated in this final rule (see Management, above), we find that a 656 ft. (200 m) buffer distance provides a reasonable balance between protection of condors and limiting the impact of this reintroduction effort on landowners.

Comment: One peer reviewer asked about the timing of our program review and how that relates to the timing of the Service's 5-year status review of the species. As the last California condor 5-year review was completed in 2013, they were concerned that our review periods would not be aligned.

Response: We will informally review the status of the reintroduction program on an annual basis. We intend to release key information from this informal annual review (*e.g.,* population size, number of releases, number of deaths) to the public. Our formal status review of the reintroduction program, where we will assess whether we should continue or discontinue the reintroduction program in the Pacific Northwest, will likely occur within the first 5 years of the program. The review cycles will be aligned from that point forward. Based on our experiences releasing California condors in other areas, we caution that evaluating whether or not the program is successful—and therefore, whether it should continue—will take at least two decades (*i.e.,* several 5-year review cycles).

Comment: One peer reviewer suggested that we should provide mechanisms for cancelling the program if a sufficient number of condors are killed or lost for reasons that cannot be alleviated due to the experimental NEP status.

Response: As stated in the proposed rule, and in this final rule, if a formal evaluation indicates the project is experiencing a 40 percent or greater mortality rate over multiple years or released California condors are not finding food on their own, we would evaluate options, including discontinuing releases, capturing and removing condors from the NEP area, and whether to remove the NEP designation and regulations. If we proposed removal of the regulations, we would provide an opportunity for public review and comment.

Comment: One peer reviewer expressed concern over whether establishing a new population would impact the viability of existing populations. They also asked us to describe how the captive facilities will increase production and questioned whether funding and support would be available to accomplish that work.

Response: In our proposed rule, and in this final rule, we provide information on a preliminary demographic analysis that shows existing populations are likely to continue to grow even when breeding facilities are producing California condor chicks at less than existing capacity. The condor program has a long history of cooperation among partner institutions, and we have broad support among these institutions for establishment of a new release site in the Pacific Northwest. Likewise, the condor program is funded by a wide variety of partners and sources which are expected to continue to be able to support the existing breeding facilities capacity. Decisions on allocation of condor chicks are made in collaboration with these partner institutions and geneticists. Given the available information on condor demography and the strength and longevity of our partnerships, we are confident that captive-breeding facilities will continue to produce sufficient numbers of California condors to ensure the viability of existing populations and the success of a new reintroduction program in the Pacific Northwest.

Comment: One peer reviewer stated success of the reintroduction program was not defined. They requested that we included an explicit definition of success or remove the term from the final rule.

Response: The ultimate goal of any conservation reintroduction is to establish a self-sustaining wild population. We will evaluate, every 5 years, whether the program is progressing toward achieving that goal. Based on our experience, estimates of mortality rates in the first decade of the release programs at existing sites in California and Arizona were between 17–35 percent. Since we expect it will take many years to achieve our ultimate goal of a self-sustaining wild population, we will consider success to be the continued progress toward achieving that goal. As stated in the final rule, if we observe a 40 percent or greater mortality rate over multiple years, or released California condors are not finding food on their own, serious consideration will be given to terminating the project.

Comment: One peer reviewer asked whether there might be threats unique to northern California or Oregon, that are not threats in the current range of the California condor.

Response: We are not aware of any threats to the California condor that are unique to the Pacific Northwest. We will closely monitor the health of released condors and address any novel threats, should they emerge.

Comment: One peer reviewer stated that he thought the scientific and biological components of the proposed rule were excellent and clearly described. He also provided several technical corrections and edits related to condor biology and management.

Response: We thank the reviewer for his comments and, as appropriate, have incorporated corrections.

Public Comments

Comment: Condors should be removed from the field if designation of a nonessential population changes recreational activities that were legal at the time of the designation, specifically hunting and recreational shooting. Other activities that should be protected in this manner include ranching, timber harvest activities, mining, environmental remediation and restoration, power operations, transportation for both inter- and intra-state commerce, currently in-place endangered species recovery plans, and housing development in cities. Commenters suggested that removing condors from the field should also be included if a sufficient number of individuals are lost during the program.

Response: This rule exempts almost all incidental take of California condors. Significant noise or visual disturbance or habitat alteration within 656 ft (200 m) of occupied nests are prohibited. Excluded from this prohibition are emergency fuels treatment activities by Federal, State, and local agencies and Tribes to reduce the risk of catastrophic wildfire and emergency response services. Activities such as ranching and use of existing roads and trails within the 656 ft (200 m) buffer area around an occupied nest would not be considered a significant visual or noise disturbance. Thus, this rule provides substantial assurances that there will be minimal (if any) impacts to the activities the commenter mentions. As stated in the proposed rule, and in this final rule, if a formal evaluation indicates the project is experiencing a 40 percent or greater mortality rate over multiple years or released California condors are not finding food on their own, serious consideration will be given to terminating the project.

Comment: Commenters asked for clarification on how the 10(j) rule would address condors that leave the NEP area. One commenter suggested that the rule should require condors that leave the designated NEP boundary to be recaptured and returned, which would address the requirement that this population be geographically disjunct from other populations and result in better survival of birds that leave the NEP area.

Response: California condors that fly outside of the NEP area will be evaluated on a case-by-case basis. We do not require the relocation of condors that leave the NEP area. We will consider recapture if a condor moves outside of the NEP and is observed—by an individual trained in condor biology and behavior—exhibiting signs of illness, obvious distress, or exhibits behavior indicating it is at increased risk of harm. While this population is likely to be wholly separate from other condor populations for the foreseeable future, we do not intend to actively

preclude the eventual connectivity of condor populations.

Comment: Commenters stated that the 10(j) designation should eliminate the proposed exemptions for electric utilities and wind farms because these companies could use other resources/structures (*e.g.,* geofencing) to meet the 10(j) requirements. Commenters also stated that the voluntary actions undertaken by the utility owners may not be adequate to protect the NEP.

Response: The primary reason to designate a population as experimental is to engender support for reintroducing an endangered species by more surgically applying the necessary protections of the ESA. Based on known mortalities in other portions of the condor's range, deaths from electric utilities and wind turbines are not the primary threats to condor demographic rates. We will work with electric utilities and wind farm developers and operators to minimize and avoid impacts to condors. As noted in the proposed rule, PG&E has developed and is implementing a plan to minimize take of condors throughout the range of the species. The Service is working with wind energy companies in other parts of the species' range to minimize risk of condor collision with turbines.

Comment: Commenters stated that the 10(j) rule should increase the level and enforcement of penalties.

Response: Section 11 of the ESA addresses civil and criminal fines and penalties associated with violations of the provisions of the ESA and permits issued under the ESA. Any enforcement actions under the ESA will be subject to the maximum fines and penalties outlined in this statute, as those amounts have been adjusted pursuant to Federal law. The current penalty amounts are in 50 CFR 11.33, as adjusted this year (85 FR 10310, February 24, 2020). Enforcement actions and any ensuing penalties for violations of the ESA are based on the facts of each case.

Comment: The California condor should not be established as an NEP without assurances that hunting and recreational shooting would continue. Commenters indicated that a ''special rule'' should be in place to ensure that hunting and/or recreational shooting are not affected.

Response: Incidental take of California condors associated with legal and non-negligent hunting and recreational shooting is not prohibited within the NEP, provided such take is unintentional and non-negligent. Habitat alteration and significant visual and noise disturbance within 656 ft (200 m) of an occupied nest is prohibited. Excluded from this prohibition are emergency fuels treatment activities by Federal, State, and local agencies and Tribes to reduce the risk of catastrophic wildfire and emergency response services.

Comment: The 10(j) rule as written is too permissive and should be revised to start with full protection and note where protections do not apply.

Response: ESA section 10(j) rules are intended to promote recovery of threatened and endangered species, while reducing the impact of reintroductions on stakeholders. For the reasons articulated in the preamble (see Management, above), we find that the special regulations will provide the appropriate balance of species protection and reduced impact to stakeholders.

Comment: Commenters expressed concern that reducing protections for the California condor would establish a new baseline for policymaking in the future.

Response: We evaluate the need for an experimental population designation and associated 10(j) rules on a case-by-case basis. After carefully reviewing the best available information and coordinating with our State and Tribal partners, Federal land managers, local landowners, and other conservation partners, we have determined that a California condor reintroduction in this area would not have the necessary support without an experimental population designation. This is not the first nonessential experimental population of the California condor and, therefore, is not precedent-setting. Furthermore, nothing in this rule establishes a new baseline for future policy decisions on achieving condor recovery as this rule applies only to this population.

Comment: Several commenters were concerned about potential impacts on land use and socioeconomics in Nevada. One commenter suggested that take of condors should not be deemed negligent where there have been infrequent or inconsistent occurrences of the species in a given project area or where a given instance of take is the first occurrence.

Response: Although the northwestern corner of Nevada is included in the NEP boundary, the best available information on habitat suitability and landscape connectivity suggests that this area is unlikely to become occupied by condors in the foreseeable future. We included northwestern Nevada within the NEP to provide assurances to Nevada that in the unlikely event California condors travel to this area, they would be treated as nonessential experimental animals under the Act. While we do not expect condors to occupy northwestern Nevada within the foreseeable future, we are exempting incidental take from otherwise lawful activities within the NEP, including this area, as long as such take is unintentional and non-negligent. We decline to exempt negligent take, even if the species is infrequently observed in an area. California condors are easily identified and should not be mistaken for any animal that can be legally harvested, killed, captured, wounded, or harassed. Habitat alteration or significant visual or noise disturbance within 656 ft (200 m) of an occupied nest are prohibited. Excluded from this prohibition are emergency fuels treatment activities by Federal, State, and local agencies and Tribes to reduce the risk of catastrophic wildfire and emergency response services. These exemptions and regulations are expected to minimize impacts on land use and socioeconomics in the remote event condors occupy northwestern Nevada.

Comment: One commenter requested clarification on the proposed timeline of the stipulations in the rule, specifically asking about the 20-year timeframe noted in the rule.

Response: This rule will remain in place unless it is rescinded through formal rulemaking. The 20-year timeframe in this rule refers to the time horizon over which we can reasonably forecast California condor population expansion to define the boundary of the experimental population. It also provides a time horizon over which we analyzed the likelihood the population will become established and survive in the NEP. We chose 20 years based on the number of years of data we have on condor movements from release sites in southern and central California. We expect that the contribution of the experimental population toward recovery of the California condor will be evident during this time span, although we recognize that establishing a self-sustaining population of condors in the region may take longer given the species' extremely low reproductive rate.

Comment: One commenter asked for further clarification on how a decision would be made to remove condors from the field in the event that the FWS was compelled by a court order to change the protection status of the population, asking if it would be based on votes of participating parties or would MOU signatories have any type of veto power.

Response: While FWS would ultimately be responsible for determining how to proceed and ensuring any changes in the legal status and/or removal of this population of

California condors are made in compliance with any applicable Federal rulemaking and other procedures, we would carefully consider input from partners. The MOU signatories include a range of agencies, conservation partners, and stakeholders with interests that represent a wide variety of interests associated with land management activities. FWS would meet with all of the 17 partners to the MOU to discuss the options on how to proceed, including the option of attempting to capture and relocate all the condors in the wild. We would discuss the consequences of each option with the MOU partners and would make a fact-specific assessment of how to proceed based on the information at that time, including whether there was general agreement from the MOU partners that the condors should remain in the wild. FWS does not intend to hold a formal vote, and none of the MOU signatories would hold veto power.

Comment: Commenters requested that additional activities exempt from take prohibitions be specifically stated in the rule, including existing authorized uses of private and public lands; administrative and emergency functions carried out by local, State, or Federal government; and normal agricultural practices.

Response: We have clarified that the activities provided by the commenters are also exempt from incidental take prohibitions, provided the take is unintentional and the activities are lawful. Please see the Management section above for these changes.

Comment: Commenters requested that our 10(j) rule include more specific language stating that the construction, operation, and maintenance of wind energy and electric transmission facilities would not constitute take. To address this concern, they suggested paragraph (i)(2) be amended to remove the term ''non-negligent'' and to specifically add electric transmission and distribution and wind generation facilities.

Response: Construction, operation, and maintenance of wind energy and electric transmission facilities may result in take of California condors. However, by issuing this rule, we are exempting such incidental take (provided it is lawful and non-negligent) from the prohibitions of the ESA. We decline to remove the term ''non-negligent'' as we do not intend to exempt negligent take from the prohibitions of the ESA.

Comment: One commenter asked that the phrase ''unavoidably and unintentionally'' used in the 10(j) rule be further clarified. The following clarification was proposed: ''[t]ake that occurs unavoidably and unintentionally is that which occurs despite reasonable care and is not done on purpose.''

Response: The commenter's interpretation of ''unavoidably and unintentionally'' is consistent with how we intend its use in this rule. We have updated the final rule to include this clarification.

Comment: Commenters noted concern with how take is defined in the 10(j) rule and felt that how it is defined would open various parties to charges of non-permitted incidental take. They noted that logging companies, NPS, and others could be exposed to liability under the current definition because the rule is not clear on the complex interactions of terrain as part of the current regulatory overlay of different species and habitat conservation plans.

Response: By adopting the 10(j) rule, most incidental take of California condors within the experimental population area is allowed, provided that the activity is otherwise lawful and the take is unintentional and not due to negligent conduct. Habitat alterations and significant visual or noise disturbance within 656 ft (200 m) of an occupied nest are prohibited. Excluded from this prohibition are emergency fuels treatment activities by Federal, State, and local agencies and Tribes to reduce the risk of catastrophic wildfire and emergency response services. Activities such as ranching and use of existing roads and trails within the 656 ft (200 m) buffer area around an occupied nest would not be considered a significant visual or noise disturbance.

Comment: Some commenters suggested that the proposed 10(j) boundary is too large and that it should be reduced to the Klamath Siskiyou bioregion. They noted that because of the time it would take birds to leave the currently proposed region, they should have the full protection of the ESA once they leave.

Response: Experimental population boundaries are generally drawn to encompass the likely movements of the reintroduced population within the foreseeable future. However, they do not need to tightly circumscribe that area, and boundaries may be drawn larger to provide assurances to concerned stakeholders that individuals from a reintroduced experimental population will not be treated as a fully ESA-listed species. Given long-distance movements observed at other release sites, it is unlikely that condors reintroduced to Redwood National Park will limit their movements to the Klamath-Siskiyou bioregion in the foreseeable future.

Comment: Commenters requested that the application of the 10(j) stipulation in the Sheldon National Wildlife Refuge be clarified.

Response: Although the northwestern corner of Nevada (where Sheldon National Wildlife Refuge is located) is included in the NEP boundary, the best available information on habitat suitability and landscape connectivity suggests that this area is unlikely to become occupied by condors in the foreseeable future. We included northwestern Nevada within the NEP to provide assurances to Nevada that in the unlikely event California condors travel to this area, they would be treated as nonessential experimental animals under the Act. The 10(j) rule would apply on National Wildlife Refuges, including Sheldon National Wildlife Refuge. However, experimental populations in National Wildlife Refuges and National Parks are treated as a threatened species for the purposes of section 7 of the ESA (but not under section 9 of the ESA) and consultation requirements of section 7(a)(2) of the ESA would apply.

Comment: Commenters suggested the exception for fuels management be limited to emergency fire response or fuel treatment. They noted that there is no need to risk disturbance to active condor nests in a non-emergency situation.

Response: We agree and have updated the rule accordingly.

Comment: Commenters asked if the existing program has the funding and capacity in terms of number of available birds to add a release site at the park.

Response: The Condor Recovery Program is based on a broad long-term partnership between FWS and many other partners. Funding for this program does not rely entirely on FWS funds, as many partners have other sources of funding to help run the program. In fact, a majority of the funding for the program comes from outside partners. In 2017, FWS started to work with our partners to increase the capacity at the existing breeding facilities in order to provide more captive-reared birds for release to the wild. Based on these efforts, we expect to have additional birds available for release at Redwood National Park, without impacting our releases at the other release sites.

Comment: Commenters stated that the condor recovery program could be mismanaged and suggested that condors may have a better chance of surviving if released at an existing site, rather than a new site.

Response: Along with our partners, we have over a quarter century of experience in raising condors in

captivity and releasing them into the wild. Individuals managing the proposed release site have experience at existing release sites and will be assisted by the recovery program as needed. We intend to monitor and manage the population consistent with monitoring and management efforts at existing release sites. While we acknowledge that survival rates may increase with the length of time a release site has been active (Bakker et al. 2017), we also must weigh this information against the opportunity to reintroduce condors to this portion of its historic range, which would have long-term benefits to the overall conservation goals of this species. We have determined that establishing a new population—the first in the northern half of the species' historical range—is worth the possibility of slightly lower survival rates in the early years of the new reintroduction site.

Comment: Commenters noted that landowners should be advised when monitored birds have fledged so that they can comply with the proposed standards for buffers around occupied nest sites.

Response: As part of the condor reintroduction program, monitoring will occur through various methods, as described in the Monitoring and Evaluation section of this rule. Field crews will, to the best of their ability, notify adjacent landowners when occupied nest sites are identified. NPS, FWS, and the Yurok Tribe have coordinated with many surrounding landowners and land managers throughout the planning process and remain committed to working with our partners and neighbors during project implementation.

Comment: Commenters asked during which year of the program we would review reintroduction efforts.

Response: We will informally review the status of the reintroduction program on an annual basis. We intend to release key information from this informal annual review (*e.g.,* population size, number of releases, number of deaths) to the public. Our formal status review of the reintroduction program, where we will assess whether we should continue or discontinue the reintroduction program in the Pacific Northwest, will likely occur within the first 5 years of the program. The review cycles will be aligned from that point forward. Based on our experiences releasing California condors in other areas, we caution that evaluating whether or not the program is successful—and, therefore, whether it should continue—could take at least two decades (*i.e.,* several 5-year review cycles).

Comment: Commenters suggested that the proposed rule include language that allows buffers to expand if needed.

Response: The 656-ft (200-m) buffer distance around occupied nests is intended to provide some protection to condor eggs and nestlings. We recognize that, in certain situations, noise or habitat disturbance outside of this buffer may cause harassment, or even harm, to an individual condor. We expect these instances to be extremely rare, given the small number of anticipated breeding condors in the foreseeable future and the vastness of the landscape they will occupy. For the reasons articulated in this final rule (see Management, above), we find that a 656-ft (200-m) buffer distance provides a reasonable balance between protection of condors and limiting the impact of this reintroduction effort on landowners.

Comment: Commenters suggested further research regarding preventing condor mortality from power lines.

Response: Over the last 28 years, there have been 18 incidents of condor electrocutions. FWS has worked with two major utility companies in California to minimize risk of future incidents. PG&E has recently completed a California Condor Conservation Strategy to reduce risk of electrocution and collisions of condors throughout its service area in California. In addition, PG&E has been working with partners in the condor recovery program to train chicks bred in captivity to avoid landing on power poles once they are released. These efforts continue to reduce the risk of electrocutions in the wild population.

Comment: Commenters stated that the statistics of condor survival in the wild are skewed because some carcasses are returned from the field in such a way that it makes it difficult to determine the cause of mortality.

Response: It is not possible to determine the cause of death for every condor that dies in the wild, as some carcasses are not located, and some have decayed to the point that the cause of death is indeterminable. The information the FWS provides to the public acknowledges that the data is limited to birds that we have been able to retrieve and determine the cause of death. However, given the large sample of condors for which cause of death has been determined (n = 185), it is likely that our data on mortality sources are representative of the mortality sources in the population.

Comment: Commenters questioned statements that describe the historical range of the California condor and note the causes of California condor decline. They note that the condor's preferred nesting habitats were not in areas that settlers would have normally used and, if direct persecution occurred, it was most likely related to condors feeding on livestock. They also noted that when game is shot, the carcass is usually retrieved, making lead poisoning from ammunition unlikely.

Response: The probable causes for condor declines being related to direct persecution, indirect poisoning, and lead poisoning are well documented (D'Elia and Haig 2013). Condors can travel great distances from their nesting areas to feed and were documented on numerous occasions by early explorers and settlers. Condors are obligate scavengers and are not livestock predators; however, it is true that some settlers killed condors under the mistaken belief that condors might harm their livestock. In addition, there is ample historical evidence of numerous condors being shot for no purpose at all. While hunters usually retrieve game, misplaced shots may wound animals, and these individuals may carry lead fragments in their tissues until they die and the lead becomes available to scavengers. Further, many hunters field-dress game, leaving nonedible gut piles that can contain lead fragments. Finally, varmint hunters, typically targeting nongame animals such as ground squirrels and coyotes, shoot animals and leave carcasses in the field.

Comment: Commenters made suggestions for adding tribal governments to the list of entities able to take condors during the course of recovery activities, modifying the fuels management exception to just emergency response activities, and clarifying that the Yurok Tribe Natural Resource Division is the responsible agency.

Response: We thank the commenters for the suggestions and have updated the rule accordingly.

Comment: Commenters questioned if non-lead outreach efforts and efforts for the voluntary switch to non-lead ammunition would occur in Nevada.

Response: NDOW has implemented some voluntary measures to encourage hunters to switch to non-lead ammunition. In 2015, NDOW collaborated with the North American Non-lead Partnership to train hunter education instructors about non-lead ammunition. Non-lead ammunition outreach is now included in all hunter education training in Nevada. In addition, Nevada also has a regulation mandating the use of nontoxic shot on all Nevada Wildlife Management Areas (NAC 503.183).

Comment: Commenters stated that past studies show that the lead ammunition ban would not be effective

in reducing the rates of lead in California condors because there are other sources of lead in the environment. They requested that the NEP include a special rule protecting all aspects of hunting, including use of all types of ammunition.

Response: There is consensus, based on decades of scientific research, that lead ammunition is the primary source of lead toxicosis in California condors. While other sources of lead (*e.g.,* lead paint) exist in the environment, instances of these sources poisoning California condors are extremely rare compared to poisoning from lead ammunition. This rule does not restrict lawful hunting and does not mandate the use any specific type of ammunition.

Comment: Commenters stated that condors can be exposed to many contaminants. Contaminants of concern included mercury, anticoagulant rodenticides, DDT, and heavy metals from mining activities. Commenters stated there should be further study of the threats of emerging chemicals on condors and suggested that current statistics may underestimate the mortality resulting from these sources because the cause of death for many birds is undetermined. They also suggested that exposure to these chemicals may be considered ''take'' under the proposed rule.

Response: While we cannot determine the cause of death for every individual condor, our mortality data indicate that, of the known causes of death, contaminants (not including lead), make up a very small proportion of deaths (USFWS 2020, p. 3). Nevertheless, we intend to monitor the health of released condors and assess contaminant loads in condors during health screenings and when we retrieve deceased condors in the field. We welcome additional research into exposure rates and impacts of contaminants on condor demography. In this rule, we are exempting incidental take associated with lawful activities that is non-negligent and unintentional. Habitat alteration and significant visual and noise disturbance within 656 ft (200 m) of an occupied nest are prohibited. Use of pesticides in compliance with EPA labels would not be prohibited within the NEP, whereas, use of pesticides out of compliance with EPA labels that results in take would be a violation of the ESA.

Comment: Comments expressed specific concerns about the use of rodenticides in illegal marijuana growing sites. They requested that the 10(j) designation include a plan for rapid response if contamination related to mortalities occur.

Response: As at existing release sites, field crews will closely monitor released condors and perform regular heath checks. If we detect toxicants are making condors sick or causing mortality, we will attempt to address the source(s) of contamination as rapidly as possible.

Comment: Commenters expressed concern regarding the establishment of a new wind project near Cape Mendocino and the potential impact that project could have on the reintroduced population of condors.

Response: To date, after more than 20 years of releasing California condors in areas with extensive wind energy development, we have not observed a single condor mortality from collisions with wind turbines. In addition, the amount of wind energy development (existing and proposed) is far less than the existing wind energy development in occupied condor habitat in southern and central California. Nevertheless, we recognize that poorly sited wind energy infrastructure can pose a threat to condors. Project proponents for wind projects in northern California have publicly expressed a willingness to work with the condor program and implement technology that can shut down turbines if a monitored condor flies close to a facility. We will seek to cooperate with energy producers for all existing and proposed energy projects in the region.

Summary of Changes From Proposed Rule

In the final rule we have:

- Clarified that fuels treatments that are considered an emergency are exempt from the prohibited actions within 656 ft (200 m) of occupied nests.
- Added Tribal and local governments to the list of entities that are exempt from the prohibitions within 656 ft (200 m) of occupied nests when conducting emergency fuels treatments to reduce the risk of catastrophic wildfire.
- Added an exemption to the prohibitions within 656 ft (200 m) of occupied nests for responses to wildfire or other emergencies.
- Clarified that activities such as ranching and use of existing roads and trails would not be considered a significant visual or noise disturbance occurring within 656 ft (200 m) of an occupied nest.
- Clarified that we use the phrase ''unavoidably and unintentionally'' to mean take that is not done on purpose and that occurs despite exerting reasonable care to avoid take.
- Provided, in response to comments, additional examples of otherwise lawful activities that are exempt from incidental take prohibitions.
- Provided, in response to comments, additional examples of specific activities that would be prohibited around occupied nests.
- Changed, at the request of the Yurok Tribe, the entity that may take condors to aid in their recovery from the Yurok Wildlife Department to the Yurok Tribe Natural Resource Division.

Findings

Based on the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that releasing the California condors into Redwood National Park with the regulatory provisions in this final rulemaking will further the conservation of the species. The nonessential experimental population status is appropriate for the reintroduced population because we have determined that it is not essential to the continued existence of the species in the wild.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

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

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 60 *et seq.*), whenever a Federal agency is required

to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We certify that this rule would not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The areas that would be affected under this rule include the release site at Redwood National Park and areas where individual California condors are likely to disperse. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and the exemption for incidental take in the rule (with a minor exception around occupied nests), we do not expect this rule to have significant effects on any activities within Federal, State, or private lands within the NEP. In regard to section 7(a)(2) of the Act, the population would be treated as proposed for listing, and Federal action agencies are not required to consult on their activities, except on National Wildlife Refuges and National Park System lands, where the NEP is treated as a threatened species for the purposes of section 7 of the Act.

Section 7(a)(4) of the Act requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed for listing. However, because the NEP is, by definition, not essential to the survival of the species, conferring will likely never be required for the California condor population within the NEP area. Further, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. Section 7(a)(1) of the Act requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP areas. On National Wildlife Refuges and National Park System lands within the NEP, the California condor would be treated as a threatened species for the purposes of section 7 of the Act. As a result, and in accordance with our regulations, some modifications to proposed Federal actions within National Wildlife Refuges and National Park System lands may occur to benefit the California condor, but we do not expect projects to be substantially modified because these lands are already administered in a manner that is compatible with California condor conservation.

This rule broadly authorizes incidental take of the California condor within the NEP area. The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity, such as agricultural activities and other rural development, camping, hiking, hunting, vehicle use of roads and highways, and other activities in the NEP areas that are in accordance with Federal, Tribal, State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes would not be authorized. Intentional take for research or recovery purposes would require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the proposed release site are recreation, timber production, agriculture, and activities associated with private residences. The presence of the California condor will not significantly affect the use of lands for these purposes because—with a minor exception around occupied condor nests—there will be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or private landowners due to the presence of the California condor (NPS, 2018). Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the NEP area.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This rule would not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that, if adopted, this rulemaking would not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. Small governments would not be affected because the NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This rule would not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). This NEP designation for the California condor would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. When reintroduced populations of federally listed species are designated as nonessential experimental populations, the Act's regulatory requirements regarding the reintroduced population are significantly reduced. This rule would allow for the taking of reintroduced California condors when such take is incidental to an otherwise legal activity, with a minor exception that incidental take resulting from habitat alteration and significant visual or noise disturbance within 656 ft (200 m) of occupied condor nests is prohibited.

A takings implication assessment is not required because this rule: (1) Would not effectively compel a property owner to suffer a physical invasion of property, and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This rule would substantially advance a legitimate government interest (conservation and recovery of a listed species) and would not present a barrier to all reasonable and expected beneficial uses of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this rule has significant Federalism effects and have determined that a Federalism assessment is not required. This rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this rule with the affected resource agencies in California, Nevada, and Oregon. Achieving the recovery goals for this species will contribute to its eventual delisting and return to State management. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or

State governments would not change, and fiscal capacity would not be substantially directly affected. The rule operates to maintain the existing relationship between the State and the Federal Government and is being undertaken in coordination with the States of California, Nevada, and Oregon. We have cooperated with CDFW, the NDOW, and ODFW in the preparation of this final rule. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a Federalism assessment pursuant to the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988 (February 7, 1996, 61 FR 4729), the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with permitting and reporting requirements associated with native endangered and threatened species, and experimental populations, and assigned the following OMB Control Numbers:

- 1018–0094, ''Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species; 50 CFR 10, 13, and 17'' (expires 03/31/2021), and
- 1018–0095, ''Endangered and Threatened Wildlife, Experimental Populations, 50 CFR 17.84'' (expires 9/30/2023).

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.

National Environmental Policy Act

In compliance with all provisions of the National Environmental Policy Act of 1969 (NEPA), we have analyzed the impact of this final rule. In cooperation with the NPS and the Yurok Tribe, we have prepared an environmental assessment on this action and have made it available for public inspection (see **ADDRESSES**).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 229511), Executive Order 13175, and the Department of the Interior Manual Chapter 512 DM 2, we have coordinated closely with the Tribal governments near the release site throughout the development of this rule. In collaboration with the NPS, we extended an invitation for government-to-government consultation to all federally recognized Tribes in the NEP area, have formally met with tribes that have requested government-to-government consultation, and have fully considered information and comments received through the consultation process. We have also considered all comments received from Tribes and tribal members during the public comment period.

Energy Supply, Distribution, or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this final rule is available online at *http://www.regulations.gov* in Docket No. FWS–R1–ES–2018–0033 or upon request from the Pacific Region Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary author of this final rule is Jesse D'Elia of the Pacific Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we are amending part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Condor, California'' under BIRDS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
BIRDS				
*	*	*	*	*
Condor, California	*Gymnogyps californianus*	U.S.A. only, except where listed as an experimental population.	E	32 FR 4001, 3/11/1967; 61 FR 54045, 10/16/1996; 50 CFR 17.95(b)[CH].
Condor, California	*Gymnogyps californianus*	U.S.A. (specific portions of Arizona, Nevada, and Utah)—see § 17.84(j).	XN	61 FR 54045, 10/16/1996; 50 CFR 17.84(j) [10j].
Condor, California	*Gymnogyps californianus*	U.S.A. (Oregon, and specific portions of northern California and northwest Nevada)—see § 17.84(i).	XN	86 FR [Insert **Federal Register** page where the document begins], 3/24/2021; 50 CFR 17.84(i) [10j].
*	*	*	*	*

■ 3. Amend § 17.84 by adding paragraph (i) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(i) California condor (*Gymnogyps californianus*).

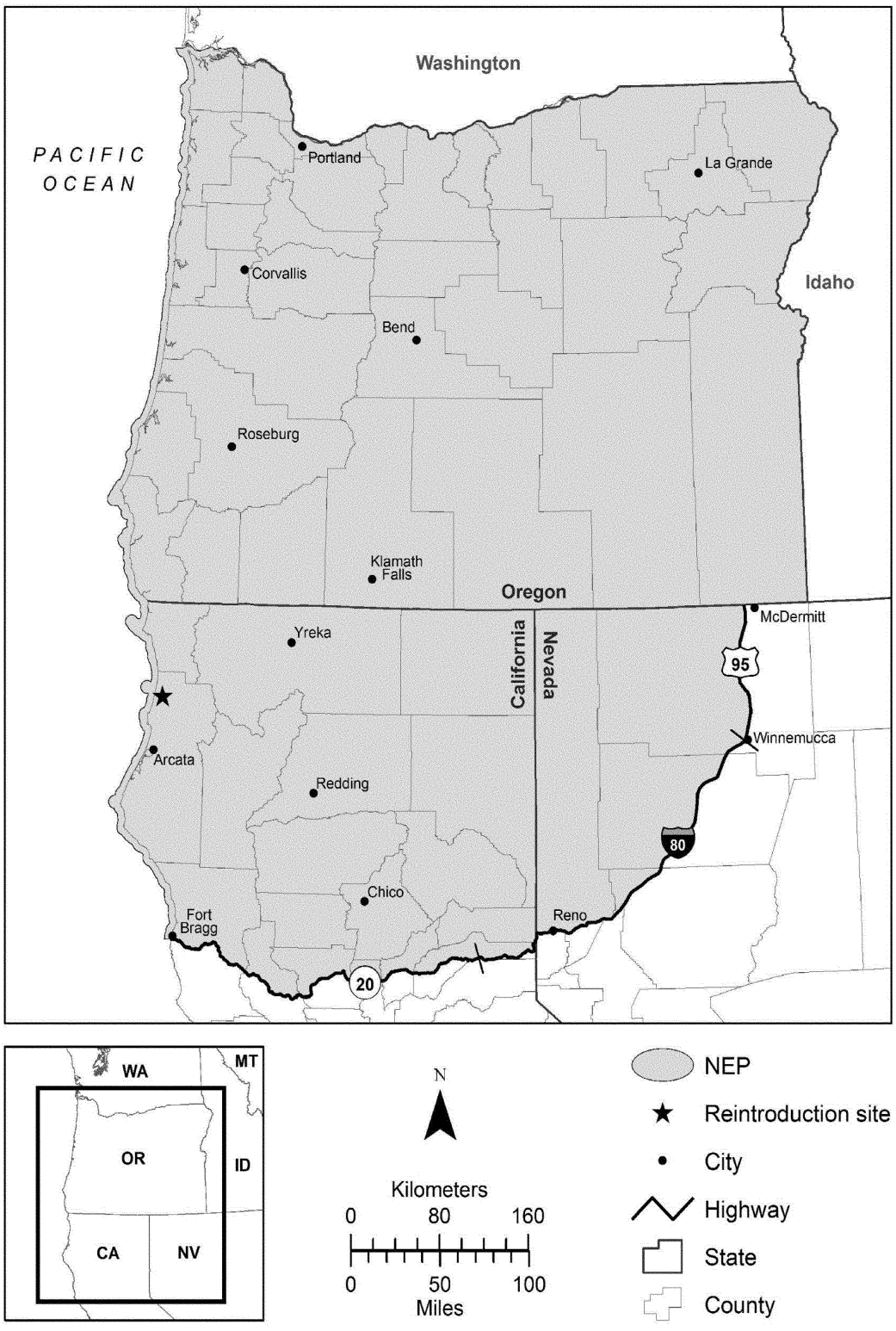
(1) *Where is the California condor designated as a nonessential experimental population (NEP)?* The NEP area for the California condor is within the species' historical range in northern California, northwestern Nevada, and Oregon.

(i) The western boundary of the NEP is the Submerged Lands Act boundary line along the Pacific coast. The southern boundary of the NEP is formed by: An east-west line from California's Submerged Lands Act boundary to Hare Creek; Hare Creek from the Pacific Ocean to its junction with California State Route 1; north to the junction of State Route 1 and State Route 20; east along California State Route 20 to where it meets Interstate 80; and Interstate 80 from its intersection with California State Route 20 to U.S. Route 95 in Nevada. The eastern boundary of the NEP is U.S. Route 95 in Nevada to the State boundary of Oregon and then east and north along Oregon's southern and eastern boundaries, respectively. The northern boundary of the NEP is the State boundary between Oregon and Washington. All highway boundaries are inclusive of the entire highway right of way.

(ii) Map follows:

BILLING CODE 4333–15–P

Nonessential Experimental Population for the California Condor in the Pacific Northwest



BILLING CODE 4333–15–C

(iii) We are designating the experimental population area to accommodate the potential future movements of a wild population of California condors. The released population is expected to remain in the experimental area for the foreseeable future (approximately 20 years) due to the geographic extent of the designation.

(iv) We do not intend to change the status of this nonessential population unless:

(A) The California condor is recovered and subsequently removed from the list

in § 17.11(h) in accordance with the Act; or

(B) The reintroduction is not successful and the regulations in this paragraph (i) are revoked.

(v) Legal actions or other circumstances may compel a change in this nonessential experimental population's legal status to essential, threatened, or endangered, or compel the Service to designate critical habitat for the California condors within the experimental population area defined in this rule. If this happens, all California condors will be removed from the area and this experimental population rule will be withdrawn, unless the participating parties in the reintroduction effort agree that the condors should remain in the wild. Changes in the legal status and/or removal of this population of California condors will be made in compliance with any applicable Federal rulemaking and other procedures.

(vi) We will not designate critical habitat for this NEP, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What take of the California condor is allowed in the NEP area?* (i) Throughout the California condor NEP, you will not be in violation of the Act if you unavoidably and unintentionally take a California condor (except as noted in paragraph (i)(3)(ii) of this section), provided such take is non-negligent, incidental to a lawful activity (*i.e.,* not done on purpose), and you report the take as soon as possible as provided under paragraph (i)(2)(iii) of this section. The phrase ''unavoidably and unintentionally'' means take that occurs despite the exertion of reasonable care to avoid take. Examples of activities that will not violate the take prohibitions of this section include, but are not limited to: Legal hunting of species other than condors; recreational shooting; ranching; farming; existing authorized uses of private and public lands; driving; recreational activities; and administrative and emergency functions carried out by local, State, or Federal government agencies.

(ii) Any person with a valid permit issued by the Service under § 17.32 may take California condors in the wild in the experimental population area, pursuant to the terms of the permit. Additionally, any employee or agent of the Service, National Park Service, Yurok Tribe Natural Resource Division, California Department of Parks and Recreation, California Department of Fish and Wildlife, Nevada Department of Wildlife, or Oregon Department of Fish and Wildlife who is designated and trained for such purposes, when acting in the course of official duties, may take a California condor within the NEP area if such action is necessary:

(A) For scientific purposes;

(B) To relocate or haze California condors within the experimental population area to improve California condor survival or recovery;

(C) To relocate California condors that have moved outside the experimental population area;

(D) To transport California condors to and from veterinary facilities or captive-breeding facilities;

(E) To address conflicts with ongoing or proposed activities in an attempt to improve California condor survival;

(F) To aid a sick, injured, or orphaned California condor;

(G) To salvage a dead specimen that may be useful for scientific study;

(H) To dispose of a dead specimen; or

(I) To aid in law enforcement investigations involving the California condor.

(iii) Any take pursuant to paragraphs (i)(2)(i), (i)(2)(ii)(F), (i)(2)(ii)(G), or (i)(2)(ii)(H) of this section must be reported as soon as possible to the California Condor Field Coordinator, California Condor Recovery Office, 2493 Portola Road, Suite A, Ventura, California 93003, (805/644–5185), who will determine the disposition of any live or dead specimens.

(3) *What take of the California condor is not allowed in the NEP area?* For the purposes of this rule, an occupied California condor nest is defined as a nest that is attended by a breeding pair of condors, occupied by a condor egg, or occupied or attended by a condor less than 1 year of age.

(i) Except as expressly allowed in paragraph (i)(2) of this section, all of the provisions of § 17.31(a) and (b) apply to the California condor in areas identified in paragraph (i)(1) of this section, and any manner of take not described under paragraph (i)(2) of this section is prohibited in the NEP.

(ii) Habitat alteration (*e.g.,* removing trees, erecting structures, altering the nest structure or perches near the nest) within 656 ft (200 m) of an occupied nest is prohibited, except for emergency fuels treatment activities by Federal, State, Tribal, or local government agencies to reduce the risk of catastrophic wildfire or during responses to wildfire or other emergencies.

(iii) Significant visual or noise disturbance (*e.g.,* tree felling, chainsaws, helicopter overflights, concrete cutters, fireworks, explosives) within 656 ft (200 m) of an occupied nest is prohibited, except for emergency fuels treatment activities by Federal, State, Tribal, or local government agencies to reduce the risk of catastrophic wildfire or during responses to wildfire or other emergencies. Activities such as ranching and use of existing roads and trails would not be considered a significant visual or noise disturbance.

(iv) You must not possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any California condor or part thereof from the experimental population taken in violation of this paragraph (i) or in violation of applicable tribal or State laws or regulations or the Act.

(v) It is unlawful for you to attempt to commit, solicit another to commit, or cause to be committed, any take of the California condor, except as expressly allowed in paragraph (i)(2) of this section.

(4) *How will the effectiveness of this reintroduction be monitored?* The status of the reintroduction project will receive an informal review on an annual basis, and we will evaluate the reintroduction program to determine whether to continue or terminate reintroductions every 5 years as part of our 5-year status review for the species.

(i) This evaluation will include, but will not be limited to: A review of management issues; California condor movements and post-release behavior; assessment of food resources and dependence of California condors on supplemental food; fecundity of the population; causes and rates of mortality; project costs; public acceptance; and progress toward establishing a self-sustaining population.

(ii) If a formal evaluation indicates the project is experiencing a 40 percent or greater mortality rate over multiple years or released California condors are not finding food on their own, serious consideration will be given to terminating the project.

* * * * *

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–05646 Filed 3–23–21; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 86, No. 55
Wednesday, March 24, 2021

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2020–0274]

RIN 3150–AK57

List of Approved Spent Fuel Storage Casks: TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System, Certificate of Compliance No. 1004, Renewed Amendment No. 17

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations by revising the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System listing within the ''List of approved spent fuel storage casks'' to include Renewed Amendment No. 17 to Certificate of Compliance No. 1004. Because this amendment is subsequent to the renewal of the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System Certificate of Compliance No. 1004 and, therefore, subject to the Aging Management Program requirements of the renewed certificate, it is referred to as ''Renewed Amendment No. 17.'' Renewed Amendment No. 17 revises the certificate of compliance technical specifications to add Heat Load Zoning Configurations 11–13 for the 61BTH Type 2 dry shielded canister and change the maximum assembly heat load from 1.2k W to 1.7 kW. This amendment also includes minor clarifications to the certificate of compliance.

DATES: Submit comments by April 23, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods.

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0274. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–1018; email: *Yen-Ju.Chen@nrc.gov* or Alexa Sieracki, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–7509; email: *Alexa.Sieracki@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments
II. Rulemaking Procedure
III. Background
IV. Plain Writing
V. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0274 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0274.
- *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.
- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0274 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on June 7, 2021. However, if the NRC receives any significant adverse comment by

April 23, 2021, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on December 22, 1994 (59 FR 65898), that approved the TN Americas LLC Standardized NUHOMS® Horizontal Modular Storage System design and added it to the list of NRC-approved cask designs provided in § 72.214 as Certificate of Compliance No. 1004.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./ **Federal Register** Citation
TN Americas LLC, Submittal of Application for Amendment 17 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 0.	ML20174A089 (package).
TN America, LLC—Response to Request for Additional Information—Application for Amendment 17 to Standardized NUHOMS® Certificate of Compliance No. 1004 for Spent Fuel Storage Casks, Revision 1 (Docket No. 72–1004. CAC No. 001028, EPID: L–2020–LLA–0128).	ML20255A206 (package).
User Need Memo for Rulemaking for the Standardized NUHOMS® System, Certificate of Compliance No. 1004, Renewed Amendment No. 17.	ML20308A485 (package).

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2020–0274. The Federal Rulemaking website allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2020–0274); (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2021–06077 Filed 3–23–21; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0458]

RIN 1625–AA00

Safety Zone; Apra Outer Harbor, Naval Base Guam

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a recurring safety zone for

certain waters of Apra Outer Harbor. This action is necessary to provide for the safety of life on these navigable waters near Apra Harbor, Guam, during fireworks displays. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Guam (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 23, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0458 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Chief Petty Officer Robert Davis, Sector Guam, U.S. Coast Guard; telephone 671–355–4866, email *wwmguam@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

Navy MWR conducts a recurring fireworks display between 6 p.m. and 9 p.m. during the 1st week of July. The fireworks are launched from a barge positioned in Apra Outer Harbor. Hazards from firework display include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Guam (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within a 190-yard radius of the barge.

The purpose of this rulemaking is to ensure the safety of vessels and of the navigable waters within a 190-yard radius of the fireworks barge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under its authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish this recurring safety zone from 6 p.m. to 9 p.m. during the first week of July. The safety zone would cover all navigable waters within 190 yards of the fireworks barge located in Apra Outer Harbor. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 6 p.m. to 9 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. 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, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of the Apra Outer Harbor for 3 hours. The safety zone will impact a small section of the main channel for Navy traffic, however Navy traffic will be able to transit around the area safely. This is also the main traffic area for the Marianas Yacht Club in Sasa Bay, however vessels will be able to transit around the area safely. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this 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 safety 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 rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting no more than 3 hours that would prohibit entry within 190 yards of a fireworks barge. Normally such actions are 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 preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 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. 0170.1.

■ 2. Add § 165.1419 to read as follows:

§ 165.1419 Safety Zone; Apra Outer Harbor, Naval Base Guam.

(a) *Location.* The following areas, within the Captain of the Port Guam (COTP) Zone (See 33 CFR 3.70–15), all navigable waters on the surface and below the surface within 190 yards of the fireworks barge for the 4th of July celebrations at Polaris Point, Naval Base Guam. The barge will be anchored approximately 500 yards off the north tip of Polaris Point in Apra Outer Harbor.

(b) *Definition.* As used in this section, ''designated on-scene representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, and a Federal, State, and local officer either designated by or assisting the Captain of the Port (COTP) Sector Guam in the enforcement of the safety zone.

(c) *Regulations.* (1) In accordance with the general regulations in section § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated on-scene representative.

(2) This safety zone is closed to all persons and vessel traffic, except as may be permitted by the COTP or a designated on-scene representative.

(3) Persons and Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated on-scene representative to obtain permission to do so. The COTP or a designated on-scene representative may be contacted via VHF Channel 16 or at telephone number (671) 355–4821. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated on-scene representative.

(d) *Enforcement period.* This safety zone will be enforced on a specific date during the 1st week of July from 6:00 p.m. to 9:00 p.m. annually, unless the event is delayed or cancelled due to weather. The Coast Guard will provide advance notice of enforcement and a broadcast notice to mariners to inform public of specific date.

Dated: March 16, 2021.

Christopher M. Chase,

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

[FR Doc. 2021–06079 Filed 3–23–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AQ65

Transplant Procedures With Live Donors and Related Care and Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its medical regulations to implement legislation providing it stand-alone authority to provide surgical procedures to remove a solid organ or bone marrow from a live donor for transplantation into a veteran and to furnish the live donor any care or services before and after the surgical procedure required in connection with the veteran's transplantation procedure. This rulemaking would implement the mandates of section 153 of the VA MISSION Act of 2018.

DATES: Comments must be received on or before May 24, 2021.

ADDRESSES: Comments may be submitted through *www.Regulations.gov.* Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Mani Murugavel, DNP, NE–BC, CSSGB, RN, National Director, Clinical Services, National Surgery Office (10NC2), Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–7130. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA provides eligible veterans complete medical and hospital services as authorized in chapters 17 and 73 of title 38, United States Code (U.S.C.). Consistent with that authority, VA has administered the VA transplant program to provide eligible veterans timely, high-quality care and treatment.

Moreover, VA transplant programs are members of the Organ Procurement and Transplantation Network (OPTN) established by section 372 of Public Law (Pub. L.) 98–507 (1984), as amended, and codified at 42 U.S.C. 274. The regulatory scheme in part 121 of title 42, Code of Federal Regulations (CFR) governs OPTN operations, and the provisions of section 373 of Public Law 98–507 (codified at 42 U.S.C. 274a) require the operation of a Scientific Registry (''Registry'') to allow for an ongoing evaluation of the scientific and clinical status of solid organ transplantation. Approved transplant programs must thus report specified data to the Registry. Admission to and membership in the OPTN is governed by 42 CFR 121.3; the provisions of 42 CFR 121.9 establish the requirements for OPTN-designated transplant programs and expressly include VA transplant programs. *Id.* at § 121.9(a)(3). The OPTN Board of Directors is charged with developing policies that are enforceable once approved by the Secretary of Health and Human Services. *Id. at* § 121.4. Compliance with OPTN rules and policies by designated transplant programs is required by 42 CFR 121.10. VA designated transplant programs comply with approved and applicable OPTN by-laws and policies. In addition, clinical standards of care and patient safety standards apply to VA's delivery of care, including transplant care.

Section 153 of Public Law 115–182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018 (June 6, 2018), as amended, Public Law 115–251 (Sep. 29, 2018) added section 1788 to title 38, United States Code. It codified and clarified VA's authority to provide a person a surgical procedure to remove a solid organ, part of a solid organ, or bone marrow (including peripheral blood stem cells) to donate to, and transplant into, an intended veteran-recipient (hereinafter referred to as ''intended recipient''). It clarifies that a person is eligible for the surgical procedure even if not otherwise eligible for VA health care. This law also requires VA to furnish the person with any care and services required in connection with the intended recipient's transplantation procedure. This can include non-medical care and services. It also authorizes VA to provide these benefits through agreements with community providers.

Prior to enactment of 38 U.S.C. 1788, VA had long deemed live donor care and services to be integral and medically necessary to the treatment of veterans who are eligible for a transplantation procedure under our general treatment authority. 38 U.S.C. 1710 (authorizing the provision of medically needed treatment). VA, through its OPTN-designated transplant programs, therefore provided surgical procedures for a person otherwise ineligible for VA health care to obtain a solid organ, part of a solid organ, or bone marrow, as well as providing pre- and post-surgical care and services. This included limited follow-up as specified and required by OPTN policy. VA also invoked available purchased care authorities when necessary to obtain community care for live donors. New section 1788 provides stand-alone authority to treat live donors, directly or through community providers. (VA previously relied on its general treatment authority to provide live donor care, which was clinically deemed to be integral to the transplant treatment of the Veteran.)

This proposed rule would establish new 38 CFR 17.395 to implement the mandates of section 1788, as added by the VA MISSION Act of 2018, as amended. We interpret section 1788 to remove perceived obstacles to donating a solid organ, part of a solid organ, or bone marrow. For instance, some prospective live donors fear being held financially responsible for the cost of their live donor care, including pre- or post-evaluations and care, or not being followed-up after they participate in the transplant procedure. This regulation addresses these concerns, helping us to address our ultimate objective: To help veteran-transplant candidates receive a solid organ, part of a solid organ, or bone marrow from a live donor. H.R. Rep. No. 115–671, pt. 1, at 15 (2018).

Initially, we note that section 1788 states, in subsection (a), that VA may ''provide for'' an operation of a live donor as specified therein, but in subsection (b), it states that, with respect to a live donor receiving an operation under subsection (a), VA shall ''furnish'' any care or services before and after conducting the transplant procedure that may be required in connection with the veteran's transplant procedure. We find the difference in wording (''provide for'' vs. ''furnish'') to be a distinction without a difference. The proposed regulation would therefore use ''provide'' throughout regardless if the operation or the care and services are provided within VA or in the community.

Proposed paragraph (a) would be titled ''Scope.'' It would inform the reader that the section provides for medical and non-medical care and services of persons who volunteer to donate a solid organ, part of a solid organ, or bone marrow for transplantation into an eligible veteran transplant candidate, irrespective of a donor's eligibility to receive VA health care for any reason other than to donate a solid organ, part of a solid organ, or bone marrow. It further explains that this section prescribes the type, timing, and duration of hospital care and medical services VA provides, including medical care or services purchased by agreement from a non-VA facility. It also provides for non-medical care and services essential to the prospective live donor's or the live donor's participation

and for VA reimbursement for that care and services. It clarifies that the section does not provide VA medical benefits for eligible veteran transplant candidates.

Proposed paragraph (b) would be titled ''Definitions'' and would define terms for this section. In general, it includes the terms that describe the individuals who may volunteer to donate or are donating a solid organ, part of a solid organ, or bone marrow, and the veterans who receive them throughout the course of the donation process (up through the period of a live donor's follow-up after the organ donation procedure). Two of the terms, ''kidney paired donation'' and ''live donor follow-up'', describe processes within the broader process of organ donation and transplantation. Although we propose to list the terms alphabetically in the regulation, we will describe the terms by like topics for clarity here.

The term ''prospective live donor'' would be defined as a person who has volunteered to donate a solid organ, part of a solid organ, or bone marrow, to an intended recipient, and who has agreed to participate in any activity VA deems necessary to carry out the intended recipient's transplant procedure. For example, a person who completes and submits a medical history or takes any other first step in the sequence of events potentially leading to their donation of a solid organ, part of a solid organ, or bone marrow would be a prospective live donor. A person would be considered a prospective live donor from the time the person volunteers to donate a solid organ, part of a solid organ, or bone marrow, through the screening process to determine whether the person is a match to the intended recipient.

The term ''live donor'' would be defined to comport with OPTN policy(ies) as an individual who is: (1) Medically suitable for donation; (2) is a compatible match to an identified transplant candidate; and (3) has provided informed consent to undergo elective removal of one solid organ, part of a solid organ, or of bone marrow. Therefore, the individual would be considered a live donor after it has been determined that the individual is medically suitable for donation, is a match to the intended recipient, and the individual has provided informed consent to donate. OPTN policy requires that a medical evaluation of the live donor be performed by the recovery hospital (*i.e.,* the hospital at which the recovery of the organ from the live donor will take place) and by a physician or surgeon experienced in living donation. Organ Procurement and Transplantation Network, Policy 14: Living Donation. U.S. Department of Health and Human Services, Health Resources and Services Administration. Retrieved from: *https://optn.transplant.hrsa.gov/media/1200/optn_policies.pdf* (Accessed: 12 March 2020). This evaluation includes general donor history, general family history, social history, physical exam, general laboratory and imaging tests, and additional screenings. *Id.* This leads to a determination as to whether the live donor is a compatible match to the identified transplant candidate. OPTN policy also requires informed consent be obtained from the live donor prior to organ recovery. *Id.* Pursuant to OPTN policy, the recovery hospital and evaluating physician or surgeon are responsible for compliance with OPTN policies for live donor selection. *Id.* The determination of whether an individual meets the definition of ''live donor'' involves clinical determinations that VA will not challenge when made by a provider in the community.

These clinical determinations can be made by either VA or the community provider, and will depend on the particular circumstances of the donation process. Thus, we would not define in the regulation who makes these determinations that an individual meets this proposed definition of ''live donor.''

We would define the term ''live donor follow-up'' to comport with OPTN policy(ies) and applicable standards of care and patient safety standards for the follow-up of live donors of solid organs as: For live donors of a solid organ or part of a solid organ, the collection of clinically relevant post-donation live donor data and the provision of recommended clinical laboratory tests and evaluations consistent with OPTN policy; and the provision of direct medical care required to address reasonably foreseeable donor health complications resulting directly from the donation procedure. Examples of clinically relevant post-donation living donor data would include physical capacity, current weight, and kidney function. Examples of provision of recommended clinical laboratory tests and evaluations would include serum creatinine and urine protein. Examples of direct medical care required would include treatment of an incisional hernia or infection related to the donation procedure.

To clarify, OPTN policy requires reporting of these data and related outcomes to help ensure donor safety and well-being. These data also help transplant centers provide information to future donors on risks and health consequences of donation. (Organ Procurement and Transplantation Network: Procedures to collect post-donation follow-up data from living donors. U.S. Department of Health and Human Services, Health Resources and Services Administration. Retrieved from *https://optn.transplant.hrsa.gov/resources/guidance/procedures-to-collect-post-donation-follow-up-data-from-living-donors/* (Accessed: 22 January 2020)). The goal of follow-up is, thus, to promote positive donor outcomes and thereby encourage further voluntary donations in an ''atmosphere of safety.'' *Ibid.*

We would define ''live donor follow-up'' for live donors of bone marrow as: For live donors of bone marrow, the provision of direct medical care required to address reasonably foreseeable donor health complications resulting directly from the donation procedure. We define this follow-up differently from follow-up for solid organ and part of a solid organ donors because bone marrow donors typically need far less follow-up than donors of solid organs. The OPTN does not regulate bone marrow transplantation and therefore does not require live donors of bone marrow to be followed for data and medical monitoring after donation as it does for solid organ donors. VA would nonetheless afford bone marrow donors follow-up care directly related to the bone marrow donation for a period not greater than two years, as explained in proposed paragraph (c)(4). We note that during this period of follow-up care, VA would collect data on the outcome of the bone marrow transplant. This is necessary because of data reporting requirements, such as reporting of adverse outcomes, with which VA must comply.

The term ''initial prospective live donor'' would be defined as the intended recipient's prospective live donor who volunteers to donate a kidney to a recipient other than the intended recipient through kidney paired donation. To clarify, the initial prospective live donor would be an individual who agrees to participate in a kidney paired donation exchange so the transplant candidate to whom a prospective live donor sought to donate a kidney will be eligible to receive a kidney from another person through a kidney paired donation exchange.

The initial prospective live donor might know upon volunteering that he or she will not match the intended recipient, or evaluation might reveal the initial prospective live donor and the intended recipient do not match. The intended recipient's initial prospective live donor would nonetheless provide a

kidney for kidney paired donation. Kidney paired donation is often not a direct swap. A series of persons might each provide a kidney for kidney paired donation. In due course, the initial prospective live donor's intended recipient would receive a matching kidney.

The term ''kidney paired donation'' would be defined as one prospective live donor's voluntary donation of a kidney for transplantation into a recipient other than an intended recipient, paired with the transplantation into the intended recipient of a compatible kidney from a different live donor.

The term ''transplant candidate'' would be defined as an enrolled veteran or a veteran otherwise eligible for VA's medical benefits package who VA determines has a medical need for a solid organ, part of a solid organ, or bone marrow transplant.

The term ''intended recipient'' would be defined as the transplant candidate who VA identifies to receive a live donor's solid organ, part of a solid organ, or bone marrow.

The term ''transplant recipient'' would be defined as a transplant candidate who has undergone transplantation and received a solid organ, part of a solid organ, or bone marrow from a live donor.

Proposed paragraph (c) would be titled ''Hospital care and medical services'' and would establish the types of hospital care and medical services VA would provide a prospective live donor or a live donor.

Paragraph (c)(1) would describe the types and purposes of hospital care and medical services VA would provide to a prospective live donor prior to the surgical removal of the solid organ, part of a solid organ, or bone marrow. In particular, VA would provide examinations, tests, and studies necessary to qualify a prospective live donor to donate a solid organ, part of a solid organ, or bone marrow. This typically includes initial screening, blood tests, physical examination, psychological evaluation, informed consent, and final evaluation.

Paragraph (c)(2) would describe the type and purpose of hospital care and medical services VA would provide the live donor during the period of the removal of the solid organ, part of a solid organ, or bone marrow. In particular, VA would provide the surgical procedure to remove a solid organ, part of a solid organ, or bone marrow from the living donor whose solid organ, part of a solid organ, or bone marrow will be transplanted into an intended recipient. This includes the care and services required to meet the immediate preoperative and postoperative standards of care and patient safety standards appropriate to the specific procedure. This surgical procedure would be limited to that required for the donor transplant procedure. For example, it would exclude any surgical procedure to treat a disease inadvertently discovered during the surgical procedure to remove the organ or bone marrow.

Paragraph (c)(3) would describe the type and purpose of follow-up that VA would provide a live donor of a solid organ or part of a solid organ after the surgical procedure. It would qualify the type of follow-up as all hospital care, medical services, and other services which are ''necessary and appropriate.'' The care and service provided would be as described in the definition of ''Live donor follow-up'' In paragraph (b). In addition, it would define the period of follow-up to be a period not less than that which the Organ Procurement and Transplantation Network prescribes or recommends or for a period of 2 years, whichever is greater. The OPTN-established period for live donor follow-up is expected to capture any complications associated with a live donor's participation in a solid organ transplant procedure. VA therefore believes that this is sufficient time to ensure proper follow-up.

Paragraph (c)(4) would describe the follow-up of bone marrow donors, which is less extensive than for live donors of a solid organ or part of a solid organ. VA has no protocol, requirement, or recommendation from OPTN for the follow-up of bone marrow donors. Donation of bone marrow is different from donation of a solid organ or part of a solid organ because the donor's bone marrow regenerates and replaces itself. In this sense, bone marrow donation is like blood donation, for which there is also no follow-up, because of the body's ability to regenerate and replace the lost blood volume. Effects of donation such as pain at the site of the bone marrow extraction or fatigue are minimal and resolve within a short time. This approach is aligned with community standards, as neither OPTN nor applicable standards of care or patient safety standards provide for the follow-up of bone marrow donors. Nonetheless, under proposed paragraph (c)(4), VA would provide direct medical care required to address reasonably foreseeable live donor health complications resulting directly from the bone marrow donation procedure for a period not greater than 2 years.

Proposed paragraph (c)(5) would clarify the legal authority that applies to care and services provided under paragraphs (c)(1) through (4) for a prospective live donor or a live donor who is also a veteran enrolled in VA's health care system. We note that a prospective live donor who also happens to be a veteran enrolled in VA's health care system would receive care and services authorized in paragraphs (c)(1) and (c)(2) only under this section, not as part of VA's medical benefits package available to enrollees pursuant to 38 CFR 17.38. These health care benefits are outside the scope of VA's treatment authority in section 1710, as implemented by the medical benefits package codified at 38 CFR 17.38, because they are not medically necessary. Serving as a prospective live donor is voluntary and not based on the medical needs of the prospective live donor; rather, it furthers only the necessary medical needs of the intended recipient. For live donors who are also veterans enrolled in VA's health care system, the care and services authorized under paragraphs (c)(1) and (c)(2) are not medically necessary for the live donor, as stated above; however, after they undergo the transplant operation or procedure, we believe they will have their own medical needs apart from those of the transplant recipient. We therefore think it necessary to provide a live donor who is enrolled in VA's health care system the option to receive care and services authorized under paragraphs (c)(3) and (c)(4) as an enrolled veteran, if desired. Proposed paragraph (c)(5) would therefore provide that a live donor who is also an enrollee may opt to receive his or her care and services authorized under paragraph (c)(3) under either the medical benefits package in § 17.38 of this chapter or under this section, but not both at the same time. Similarly, proposed paragraph (c)(5) would also state that a live donor who is also an enrollee may opt to receive his or her care and services authorized under paragraph (c)(4) under either the medical benefits package in § 17.38 or under this section, but not both at the same time. To clarify, the live donor may opt to receive the benefits authorized in paragraphs (c)(3) and (c)(4) only under one authority, as combining them would not be feasible. We note that, upon request, VA would explain the benefit implications for the veteran under each program, such as the difference in travel and lodging benefits. In either case, however, the follow-up of a live donor would terminate per the terms of this program.

Proposed paragraph (d) of this section would be titled ''Non-hospital care and non-medical services'' and would describe the costs of non-hospital care and non-medical services for which VA may reimburse the prospective live donor or live donor. (This benefit is wholly separate from veteran beneficiary travel benefits under 38 U.S.C. 111.) Section 1788(b) provides for VA to ''furnish'' a live donor any care or services before and after the veteran's transplantation procedure required in connection with that procedure.

We note that 38 U.S.C. 1788(b) provides broad authority for VA to furnish to a live donor any care or services before and after conducting the transplant procedure that may be required in connection with such procedure. As explained in the subsequent paragraph, VA believes that reimbursing live donors for travel costs, including temporary lodging as VA determines to be needed, is appropriate. However, VA takes this opportunity to invite public comment on whether VA should consider paying for other non-hospital care and non-medical services.

VA believes reimbursement for travel costs, including temporary lodging as appropriate, may be required for a prospective live donor or live donor and a needed attendant or support person. VA has authority to reimburse these travel costs under 38 U.S.C. 1788(b). Section 1788(b) does not, however, specify reimbursement rates or limitations. Because VA has an established travel reimbursement program for veterans, see 38 CFR part 70, we would identify the modes of travel and payment principles and derive the rates of travel reimbursement for travel and temporary lodging from 38 CFR 70.30 as set forth in paragraph (d) of the proposed regulation. The deductibles set forth in § 70.31 would not apply regardless of whether the donor or other traveler is a veteran or a non-veteran. Imposing the deductible would be contrary to the purposes of section 1788; that is, it would impose a barrier to participation, and so VA would not reduce the travel reimbursement of a prospective live donor or live donor who happens to be a veteran and who is not traveling as a veteran. Taxes associated with temporary lodging would be reimbursed to the extent and consistent with the manner in which VA covers such expenses under 38 CFR 70.30. Prospective live donors and live donors would also not be subject to eligibility or any other criteria of 38 CFR part 70.

Proposed paragraph (d)(1) would provide that, if VA determines the prospective live donor's or live donor's presence or proximity is necessary, VA would reimburse the travel costs of the prospective live donor or live donor and, if applicable, one needed attendant or support person, for travel between the prospective live donor's or live donor's residence and the site of the hospital care or medical services authorized in proposed paragraph (c). While there may be instances when VA contracts with providers in the community for the transplant procedure, VA would retain the authority to make the determination as to whether the prospective live donor's or live donor's presence or proximity is necessary. This would ensure consistency across the country in administering these benefits and this program and would ensure that there are no unauthorized commitments made by non-VA providers, as this determination can lead to reimbursement for travel costs related to the transplant procedure. It would thus be fiscally responsible for VA to retain this authority. In determining whether the prospective live donor's or live donor's presence or proximity is necessary, VA would obtain and consider input from the transplant care team, including the provider responsible for the intended recipient's transplant procedure, the provider responsible for the prospective live donor's or live donor's donation procedure, and a VA transplant specialist not participating in the care of the recipient, as indicated. This would be consistent with OPTN policies that focus on donor advocacy and on having decisions related to the donor not be solely directed by the transplant recipient's care team.

Proposed paragraph (d)(2) would provide for VA reimbursement of the prospective live donor or live donor for temporary lodging, including for a needed attendant or support person, while the prospective live donor or live donor is hospitalized for the organ removal procedure or while participating in the live donor program which requires the prospective live donor's or live donor's presence away from home at least overnight as determined necessary by VA. VA considers a prospective live donor's or live donor's need for temporary lodging or the assistance of a needed attendant before or after the donation procedure to be determinations to be made by VA. Consistent with the intent to remove barriers to live donors donating a solid organ, part of a solid organ, or bone marrow, VA considers these costs to be essential, and therefore medically necessary, to the treatment of intended recipients. As explained in the preceding discussion regarding proposed paragraph (d)(1), while there may be instances when VA contracts with providers in the community for the transplant procedure, VA would similarly retain the authority to make the determination as to whether the prospective live donor's or live donor's presence or proximity is necessary. This would ensure consistency across the country in administering these benefits and this program. It would ensure that there are no unauthorized commitments made by non-VA providers, as this determination can lead to reimbursement for travel costs related to the transplant procedure, and it would thus be fiscally responsible for VA to retain this authority. In determining whether the prospective live donor's or live donor's presence or proximity is necessary, VA would obtain and consider input from the transplant care team, including the provider responsible for the intended recipient's transplant procedure, the provider responsible for the prospective live donor's or live donor's donation procedure, and a VA transplant specialist not participating in the care of the recipient, as indicated. This would also be consistent with OPTN policies that focus on donor advocacy and on having decisions related to the donor not be solely directed by the transplant recipient's care team, as to avoid any potential conflicts.

Proposed paragraph (e) of this section, titled ''Use of non-VA facilities and non-VA service providers,'' construes 38 U.S.C. 1788(c) as it applies to 38 U.S.C. 1788(a) and (b). It would provide for VA to purchase community care and to purchase travel services to facilitate a prospective live donor's or a live donor's donation. The agreements under this paragraph must be governed by 38 U.S.C. 8153, or by any other applicable authority in title 38, United States Code, permitting VA to purchase such care and services in the community. Paragraph (e)(1)(i) would provide for VA to enter into agreements with non-VA facilities for them to provide a surgical procedure and care and services described in paragraph (c) of this section. Paragraph (e)(1)(ii) would provide for VA to enter agreements with service facilities and providers for non-hospital care or non-medical services (*i.e.,* travel services and lodging) that are described and otherwise reimbursable under paragraph (d) of this section. Proposed paragraph (e)(2), as 38 U.S.C. 1788(c) requires, would limit hospital care and medical services under these

agreements to those described in paragraph (c) of this section and would limit travel services to those described in paragraph (d) of this section. To avoid repetition, paragraph (e) would identify the hospital care and medical services to which it applies as those described in paragraph (c) of this section. It would identify the travel services to which it applies as those described in paragraph (d) of this section.

Proposed paragraph (f) of this section, titled ''Participation terminated without completion of the intended recipient's transplantation procedure,'' would ensure that a prospective live donor or live donor is not financially penalized because of termination of the transplantation process. Proposed paragraph (f)(1) would state that VA would provide the prospective live donor or live donor the care and services described in this section for any VA-authorized participation in the intended recipient's organ or bone marrow transplantation process even if the transplantation procedure for which the prospective live donor or live donor volunteered to donate a solid organ, part of a solid organ, or bone marrow is not completed. There are any number of reasons an intended recipient might not receive a prospective live donor's solid organ, part of a solid organ, or bone marrow. Any of these could occur at any time during the transplantation process. Rather than identify discrete steps or procedures for which VA will pay, this paragraph prescribes that VA authorization for a prospective live donor to participate in the transplantation process is the event that triggers VA's commitment to pay all of that donor's transplant costs authorized under this section up through the point when that individual's participation in the transplantation process ends. For example, if VA authorizes the prospective live donor to undergo assessments and diagnostic testing to assess suitability for donation, VA would pay for these costs even if the screening results subsequently disqualify the prospective donor. In addition, VA's obligations to the live donor under this section would be honored throughout the live donor's participation in the transplantation process even if the live donor's removal surgery reveals a previously unidentified disqualifying medical condition or the intended recipient dies before transplantation occurs.

A prospective live donor or a live donor may withdraw their informed consent at any time and for any reason. In these cases, VA will recognize and honor the donor's right to autonomy. Therefore, paragraph (f)(2) makes that clear and also provides that, in the case of revocation of consent, VA would still pay all the costs authorized under this section for the prospective live donor or live donor up until when the donor revokes consent and ends participation. To condition payment of these donors' costs on their completion of the live donor transplantation process would be coercive. Whatever a prospective live donor's or a live donor's reasons to revoke their informed consent, they could feel pressured to proceed against their wishes if revocation meant VA would not be financially liable for costs they had already incurred. Donor participation under these circumstances would be coercive. Even the appearance of coercion could impugn the integrity of the program. This paragraph seeks to avoid even that appearance. Apart from this concern, including this provision furthers the purpose of section 1788 by removing obstacles to donor participation in the program.

Proposed paragraph (g) of this section, titled ''Limitation on VA obligation in kidney paired donations,'' would limit VA's obligation to provide the care or services paragraph (c) of this section describes in the context of kidney paired donations. Kidney paired donation increases an intended recipient's pool of potential live kidney donors and often involves a series of matched donor exchanges. If a prospective live donor and the intended recipient do not match, that individual can become an initial prospective live donor. An initial prospective live donor agrees to donate his or her kidney to a different individual who is a match, and the intended recipient is ultimately paired with a different prospective live donor who is a match.

In a paired kidney donation, VA would provide the initial prospective live donor the examinations, tests, and studies described in proposed paragraph (c)(1) of this section. These are the same care and services that VA would provide a prospective live donor before kidney removal. Another party (such as a health insurance company or the intended recipient) would be responsible, however, for the costs of the initial prospective live donor's surgical, post-operative, live donor follow-up, and other care and services. The proposed regulation would identify as the live donor in kidney paired donation the person who is determined independently to match the intended recipient and whose kidney the intended recipient receives. VA would provide this live donor's surgical procedure and all care and services, including live donor follow-up, provided to live organ donors under this regulation.

More specifically, proposed paragraph (g)(1) would establish that VA will provide any procedure, care, or services under this section to the initial prospective live donor who elects to participate in a kidney paired donation matching program, but only for the examinations, tests, and studies described in paragraph (c)(1) for a prospective live donor before kidney removal. Proposed paragraph (g)(2) would establish that VA would provide any procedure, care, or services under this section to the live donor whose kidney the intended recipient will receive or has received but only for the services described in paragraphs (c)(2) and (c)(3). VA may use a non-VA facility as authorized in paragraph (e) to provide any care or services required in a kidney paired donation, limited, however, as described in paragraph (g) of this section.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Regulatory Flexibility Act

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

because the proposed rule does not directly regulate or impose costs on small entities and any effects would be indirect. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

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

Paperwork Reduction Act

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.029, Purchased Care Program; 64.047, VHA Primary Care; 64.042, 64.045, VHA Ancillary Outpatient Services; 64.042, VHA Inpatient Surgery; 64.040, VHA Inpatient Medicine; 64.041,VHA Outpatient Specialty Care; 64.035 Veterans Transportation Program.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs approved this document on March 12, 2021 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as set forth below:

PART 17—MEDICAL

■ 1. The general authority citation for part 17 continues and an authority citation for § 17.395 is added in numerical order to read as follows:

Authority: 38 U.S.C. 501 and as noted in specific sections.

* * * * *

Section 17.395 is also issued under 38 U.S.C. 1788.

■ 2. Add an undesignated center heading following 38 CFR 17.390 to read as follows:

Hospital Care, Medical Services, and Other Services for Live Donors

■ 3. Add § 17.395 to read as follows:

§ 17.395 Transplant procedures with live donors, and related services.

(a) *Scope.* This section provides for medical and non-medical care and services of persons who volunteer to donate a solid organ, part of a solid organ, or bone marrow for transplantation into an eligible veteran transplant candidate, irrespective of a donor's eligibility to receive VA health care for any reason other than to donate a solid organ, part of a solid organ, or bone marrow. It prescribes the type, timing, and duration of hospital care and medical services VA provides, including medical care or services purchased by agreement from a non-VA facility. It also provides for non-medical care and services essential to the prospective live donor's or live donor's participation and for VA reimbursement for that care and services. The section does not provide for eligible veteran transplant candidates' VA medical benefits.

(b) *Definitions.* For purposes of this section:

Initial prospective live donor means an intended recipient's prospective live donor who volunteers to donate a kidney to a recipient other than the intended recipient through kidney paired donation.

Intended recipient means the transplant candidate who VA identifies to receive a live donor's solid organ, part of a solid organ, or bone marrow.

Kidney paired donation means one prospective live donor's voluntary donation of a kidney for transplantation into a recipient other than an intended recipient, paired with the transplantation into the intended recipient of a compatible kidney from a different live donor.

Live donor means an individual who is:

(1) Medically suitable for donation;

(2) Is a compatible match to an identified veteran transplant candidate; and

(3) Has provided informed consent to undergo elective removal of one solid organ, part of a solid organ, or of bone marrow.

Live Donor Follow-Up Means

(1) For live donors of a solid organ or part of a solid organ, the collection of clinically relevant post-donation live donor data and the provision of recommended clinical laboratory tests and evaluations consistent with Organ Procurement and Transplantation Network policy, and the provision of direct medical care required to address reasonably foreseeable donor health complications resulting directly from the donation procedure.

(2) For live donors of bone marrow, the provision of direct medical care required to address reasonably foreseeable donor health complications resulting directly from the donation procedure.

Prospective live donor means a person who has volunteered to donate a solid organ, part of a solid organ, or bone marrow to an intended recipient, and who has agreed to participate in any activity VA deems necessary to carry out the intended recipient's transplant procedure.

Transplant candidate means an enrolled veteran or a veteran otherwise eligible for VA's medical benefits package who VA determines has a medical need for a solid organ, part of a solid organ, or bone marrow transplant.

Transplant recipient means a transplant candidate who has undergone transplantation and received a solid organ, part of a solid organ, or bone marrow from a live donor.

(c) *Hospital care and medical services.* To obtain a solid organ, part of a solid organ, or bone marrow for a VA transplant candidate, VA may provide the following hospital care and medical services to a prospective live donor or live donor:

(1) Before removal of a solid organ, part of a solid organ, or bone marrow, VA will provide examinations, tests, and studies necessary to qualify a

prospective live donor to donate a solid organ, part of a solid organ, or bone marrow.

(2) During removal of a solid organ, part of a solid organ, or bone marrow, VA will provide the surgical procedure to remove a solid organ, part of a solid organ, or bone marrow from the living donor whose solid organ, part of a solid organ, or bone marrow will be transplanted into an intended recipient.

(3) After removal of a solid organ or part of a solid organ, VA will provide all hospital care, medical services, and other services which are necessary and appropriate to live donor follow-up as defined in paragraph (b) of this section for a period not less than that which the Organ Procurement and Transplantation Network prescribes or recommends or for a period of 2 years, whichever is greater.

(4) After bone marrow removal, VA will provide direct medical care required to address reasonably foreseeable live donor health complications resulting directly from the bone marrow donation procedure for a period not greater than 2 years.

(5) A prospective live donor who is also a veteran enrolled in VA's health care system may receive care and services authorized in paragraphs (c)(1) and (c)(2) only under this section. A live donor who is also a veteran enrolled in VA's health care system may opt to receive the care and services authorized under paragraph (c)(3) or (c)(4) under either the medical benefits package codified at § 17.38 of this part or under this section, but not both at the same time.

(d) *Non-hospital care and non-medical services.* If VA determines the prospective live donor's or the live donor's presence or proximity is necessary, VA will reimburse the travel costs of the prospective live donor or live donor, including one needed attendant or support person, at the rates provided in § 70.30 of this chapter, without the deductibles required by § 70.31 of this chapter, for:

(1) Travel between the prospective live donor's or live donor's residence and the site of hospital care or medical services authorized in paragraph (c) of this section; and

(2) Temporary lodging:

(i) While the live donor is hospitalized for the organ removal procedure; or

(ii) While the prospective live donor's or live donor's participation in the live donor program requires the prospective live donor's or live donor's presence away from home at least overnight and the prospective live donor's or live donor's presence or proximity is determined necessary by VA.

(e) *Use of non-VA facilities and non-VA service providers.* (1) If and only if VA and a non-VA facility or non-VA service provider have an agreement governed by 38 U.S.C. 8153 or any other applicable authority in title 38, United States Code, a non-VA facility may provide—

(i) A surgical procedure and care and services described in paragraph (c) of this section; or

(ii) Non-hospital care or non-medical services described and otherwise reimbursable under paragraph (d) of this section.

(2) The prospective live donor or live donor is eligible for hospital care and medical services, or travel services, at a non-VA facility solely for the procedure, care, and services described in paragraphs (c) and (d) of this section as governed by an agreement described in paragraph (e)(1) of this section.

(f) *Participation terminated without completion of the intended recipient's transplantation procedure.*

(1) VA will provide the prospective live donor or live donor the care and services described in this section for any VA-authorized participation in the intended recipient's organ or bone marrow transplantation process even if the transplantation procedure for which the prospective live donor or live donor volunteered to donate a solid organ, part of a solid organ, or bone marrow is not completed.

(2) A prospective live donor or a live donor may withdraw his or her informed consent at any time and for any reason. In the case of revocation of consent, VA will pay all the costs authorized under this section for the prospective live donor or live donor up until when the donor revokes consent and ends his or her participation.

(g) *Limitation on VA obligation in kidney paired donations.* In kidney paired donations, VA's obligation to provide any procedure, care, or services under this section extends:

(1) To the initial prospective live donor who elects to participate in a kidney paired donation matching program, but only for the examinations, tests, and studies described in paragraph (c)(1) of this section for a prospective live donor before kidney removal.

(2) To the live donor whose kidney the intended recipient will receive or has received but only for the services described in paragraphs (c)(2) and (c)(3).

[FR Doc. 2021–05682 Filed 3–23–21; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0069; FRL–10021–35–Region 3]

Air Plan Approval; Delaware; Nonattainment New Source Review Requirements for 2015 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). This SIP revision will fulfill Delaware's nonattainment new source review (NNSR) SIP element requirement for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 23, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0069 at *https://www.regulations.gov,* or via email to *Opila.MaryCate@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Amy Johansen, Permits Branch (3AD10),

Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2156. Ms. Johansen can also be reached via electronic mail at *Johansen.Amy@epa.gov.*

SUPPLEMENTARY INFORMATION: On August 3, 2020, DNREC submitted on behalf of the state of Delaware a formal SIP revision, requesting EPA's approval of its NNSR Certification for the 2015 8-hour ozone NAAQS. Delaware is certifying that its existing NNSR program, covering the Delaware portion of the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE (Philadelphia Area) nonattainment area (which includes New Castle County) for the 2015 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 Code of Federal Regulations (CFR) 51.165, as amended by the final rule titled ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements'' (SIP Requirements Rule), for ozone and its precursors. See 83 FR 62998 (December 6, 2018).

I. Background

On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). 80 FR 65292 (October 26, 2015). Under EPA's regulations at 40 CFR 50.19, the 2015 8-hour ozone NAAQS is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.070 ppm.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Philadelphia Area was classified as marginal nonattainment for the 2015 8-hour ozone NAAQS on June 4, 2018 (effective August 3, 2018) using 2014–2016 ambient air quality data. 83 FR 25776. On December 6, 2018, EPA issued the final SIP Requirements Rule, which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS. 83 FR 62998 (December 6, 2018). Areas that were designated as marginal ozone nonattainment areas are required to attain the 2015 8-hour ozone NAAQS no later than August 3, 2021. 40 CFR 51.1303 and 83 FR 10376 (March 9, 2018).

Based on initial nonattainment designations for the 2015 8-hour ozone NAAQS, as well as the December 6, 2018 final SIP Requirements Rule, Delaware was required to develop a SIP revision addressing specific CAA requirements for the Philadelphia Area, and submit to EPA a NNSR Certification SIP or SIP revision no later than 36 months after the effective date of area designations for the 2015 8-hour ozone NAAQS (*i.e.,* August 3, 2021). See 83 FR 62998 (December 6, 2018). In this action, EPA is only proposing to approve Delaware's August 3, 2020 NNSR Certification SIP revision.[1] EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2015 8-hour ozone NAAQS is provided in Section II of this rulemaking action.

II. Summary of SIP Revision and EPA Analysis

This rulemaking is specific to Delaware's NNSR requirements. NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area.[2] The specific NNSR requirements for the ozone NAAQS are codified at 40 CFR 51.160–165.

The minimum SIP requirements for NNSR permitting programs for the 2015 8-hour ozone NAAQS are set forth in 40 CFR 51.165. These NNSR program requirements include those promulgated in the ''Phase 2 Rule'' implementing the 1997 8-hour ozone NAAQS (70 FR 71611 (November 29, 2005)), the 2008 Ozone NAAQS SIP implementation Rule (80 FR 12264, March 6, 2015) and the 2015 SIP Requirements Rule (83 FR 62998, December 6, 2018). Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that: Set major source thresholds for oxides of nitrogen (NO_X) and volatile organic compounds (VOC) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*1*) and (*2*); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of NO_X as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOC and NO_X as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(*1*)–(*2*); provide that the requirements applicable to VOC also apply to NO_X pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO_X pursuant to 40 CFR 51.165(a)(9).

Delaware's SIP approved NNSR program, established in Title 7 Delaware Administrative Code (DE Admin Code) 1125 (*Requirements for Preconstruction Review*), applies to the construction and modification of major stationary sources in nonattainment areas. In its August 3, 2020 SIP revision, Delaware certifies that the version of Title 7 DE Admin Code Section 1125 approved in the SIP is at least as stringent as the Federal NNSR requirements for the Philadelphia Area.[3] EPA last approved Delaware's major NNSR program as being consistent with Federal NNSR requirements on August 12, 2019. 84 FR 39758 (August 12, 2019). In that action, EPA approved DNREC's 2008 Ozone Certification SIP revision, which is analogous to EPA's proposed approval of this action. Since EPA's August 12, 2019 approval, DNREC has made one change to its regulations (related to EPA's modeling guidance), which EPA approved into DNREC's SIP on May 1, 2020. 85 FR 25307. Approval of that action, which revised Prevention of Significant Deterioration (PSD) provisions, does not impact DNREC's certification or EPA's proposed approval of DNREC's August 3, 2020 SIP submittal.

Delaware has chosen not to include certain optional NNSR provisions that EPA could approve, pertaining to emissions change of VOC in extreme nonattainment areas and emission reduction credits. Delaware's choice not to include these provisions does not affect EPA's determination regarding the approvability of its August 3, 2020

[1] In addition to certifying its NNSR program, DNREC's August 3, 2020 SIP submittal contains information certifying its Emission Statement Program and requirements for reasonable available control technology (RACT). While DNREC's submittal contains information regarding these other requirements, each requirement was submitted as standalone SIP revisions for separate EPA action.

[2] See CAA sections 172(c)(5), 173 and 182.

[3] On October 20, 2016, EPA disapproved a proposed SIP revision that sought to include additional ERC provisions, adopted by Delaware on December 11, 2016, into the Delaware SIP, specifically, 7 DE Admin Code 1125 Sections 2.5.5 and 2.5.6. 81 FR 72529. Since EPA disapproved these provisions, the previously approved provisions that EPA approved into Delaware's SIP on October 2, 2012 remain applicable Federal requirements. 77 FR 60053.

submittal, and they will not be discussed in this rulemaking.[4]

III. Proposed Action

EPA's review of this material indicates that Delaware's submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165. EPA is proposing to approve the Delaware's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Philadelphia Area, which was submitted on August 3, 2020. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule, approving Delaware's 20015 8-hour ozone NAAQS Certification SIP revision for NNSR, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate Matter, Transportation, Volatile organic compounds.

Dated: March 15, 2021

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2021–05759 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

[4] DNREC provided information regarding anti-backsliding in its August 3, 2020 SIP submittal to EPA, which was not a requirement of EPA's 2015 Ozone SIP Requirements Rule. See 83 FR 62998 (December 6, 2018). EPA noted in the 2015 Ozone SIP Requirements Rule that it would address anti-backsliding in a future rulemaking action; therefore, EPA will not be acting on anything related to anti-backsliding in this action.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2019–0582; FRL–10014–88–Region 4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the underground storage tank (UST) program submitted by the State of South Carolina (South Carolina or State). This action is based on the EPA's determination that the State's revisions satisfy all requirements for UST program approval. This action also proposes to codify South Carolina's revised UST program and to incorporate by reference the State statutes and regulations that we have determined meet the requirements for approval.

DATES: Comments on this proposed rule must be received on or before April 23, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R04–UST–2019–0582, by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: singh.ben@epa.gov.* Include the Docket ID No. EPA–R04–UST–2019–0582 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2019–0582, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *https://www.epa.gov/dockets/commenting-epa-dockets.*

Out of an abundance of caution for members of the public and our staff, the public's access to the EPA Region 4 Offices is by appointment only to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov* or via email. The EPA encourages electronic comment submittals, but if you are unable to submit electronically or need other assistance, please contact Ben Singh, the contact listed in **FOR FURTHER**

INFORMATION CONTACT. The index of the docket and all publicly available docket materials for this action are available for review on the *https://www.regulations.gov* website. The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Ben Singh to schedule an appointment to view the documents at the Region 4 Offices. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. EPA Region 4 requires all visitors adhere to the COVID–19 protocol, which requires face coverings and social distancing.

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

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

FOR FURTHER INFORMATION CONTACT: Ben Singh, RCRA Programs and Cleanup Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8922, email address: *singh.ben@epa.gov.* Please contact Ben Singh by phone or email for further information.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Parts 281 and 282

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

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

Dated: February 26, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

[FR Doc. 2021–05420 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FF09E21000 FXES11110900000 212]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Three Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on three petitions to add species to the Lists of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate status reviews of the Rio Grande shiner (*Notropis jemezanus*), Shasta snow-wreath (*Neviusia cliftonii*), and threecorner milkvetch (*Astragalus geyeri* var. *triquetrus*) to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act.

DATES: These findings were made on March 24, 2021. As we commence our status reviews, we seek any new information concerning the status of, or threats to, the species or their habitats. Any information we receive during the course of our status reviews will be considered.

ADDRESSES:

Supporting documents: Summaries of the basis for the petition findings contained in this document are available on *http://www.regulations.gov* under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**).

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, the species for which we are initiating status reviews, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment Now!'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard* copy: Submit by U.S. mail to: Public Comments Processing, Attn: [Insert appropriate docket number; see table under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT:

Species common name	Contact person
Rio Grande shiner	Andy Dean, 505–342–9900 x112, *andy_dean@fws.gov.*
Shasta snow-wreath	Jenny Ericson, 503–841–3114, *jenny_ericson@fws.gov.*
Threecorner milkvetch	Glen Knowles, 702–515–5230; *glen_knowles@fws.gov.*

If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.,* ''list'' a species), remove a species from the List (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effects of the threats on the species as a whole. We also consider the cumulative effects of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act. If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

Summaries of Petition Findings

The petition findings contained in this document are listed in the table below, and the basis for each finding, along with supporting information, is available on *http://www.regulations.gov* under the appropriate docket number.

TABLE STATUS REVIEWS

Common name	Docket No.	URL to Docket on *http://www.regulations.gov*
Rio Grande shiner	FWS–R2–ES–2020–0054	*https://www.regulations.gov/docket?D=FWS-R2-ES-2020-0054.*
Shasta snow-wreath	FWS–R8–ES–2020–0055	*https://www.regulations.gov/docket?D=FWS-R8-ES-2020-0055.*
Threecorner milkvetch	FWS–R8–ES–2020–0056	*https://www.regulations.gov/docket?D=FWS-R8-ES-2020-0056.*

Evaluation of a Petition To List the Rio Grande Shiner

Species and Range

Rio Grande shiner (*Notropis jemezanus*); New Mexico, Texas, and Mexico.

Petition History

On January 23, 2020, we received a petition dated January 21, 2020, from WildEarth Guardians requesting that the Rio Grande shiner be listed as an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Rio Grande shiner due to potential threats associated with the following: Dewatering, habitat fragmentation,

changes in stream morphology and flow regimes, and water quality degradation (Factor A); predation from nonnative species (Factor C); and climate change, human population growth, and small isolated populations (Factor E). The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D). We will fully evaluate all potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific information when making that finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2020–0054 under the Supporting Documents section.

Evaluation of a Petition To List the Shasta Snow-Wreath

Species and Range

Shasta snow-wreath (*Neviusia cliftonii*); Shasta County, California.

Petition History

On October 3, 2019, we received a petition dated September 30, 2019, from Kathleen S. Roche and the California Native Plant Society, requesting that Shasta snow-wreath (*Neviusia cliftonii*) be listed as endangered or threatened and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Shasta snow-wreath due to potential threats under Factor A, including impacts of: Raising Shasta Dam and related activities; ongoing activities, such as mining, logging, and road or trail maintenance; invasive species; and habitat changes, such as landslides and soil slumping. The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D). We will fully evaluate all potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific information when making that finding.

The basis for our finding on this petition, and other information regarding our review of this petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2020–0055 under the Supporting Documents section.

Evaluation of a Petition To List the Threecorner Milkvetch

Species and Range

Threecorner milkvetch (*Astragalus geyeri* var. *triquetrus*); Clark and Lincoln Counties, Nevada; Mohave County, Arizona.

Petition History

On April 25, 2019, we received a petition dated April 25, 2019, from Basin and Range Watch and Western Watersheds Project, requesting that the threecorner milkvetch be emergency listed as threatened or endangered and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). The Act does not provide for a process to petition emergency listing; therefore, we are evaluating this petition under the normal process of determining if it presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the threecorner milkvetch due to potential threats associated with energy development, utility infrastructure, and weedy invasive plants (Factor A). The petition also presented substantial information that the existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D). The petition also presented information suggesting livestock grazing, off-highway vehicle use, urban development, increased recreation and visitor use in parks, drought, and habitat fragmentation may be threats to the threecorner milkvetch. We will fully evaluate all potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific information when making that finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2020–0056 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the petitions summarized above for the Rio Grande shiner, Shasta snow-wreath, and threecorner milkvetch present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–05946 Filed 3–23–21; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 86, No. 55
Wednesday, March 24, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2020–0007]

Notice of Intent To Prepare an Environmental Impact Statement for the Coon Creek Watershed, La Crosse, Vernon, and Monroe Counties, Wisconsin

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) Wisconsin State Office announces its intent to prepare an EIS for the Coon Creek Watershed Project in the proximity of Cashton, Westby, Bloomingdale, Coon Valley, and Chaseburg, Wisconsin. NRCS is requesting comments to identify significant issues and alternative to be addressed in the EIS from all interested all interested individuals. The EIS process will examine existing flood control measures and evaluate additional (new) alternatives identified during scoping.

DATES: We will consider comments received by April 23, 2021. Comments received after this date will be considered to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for docket ID NRCS–2020–0007. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* Keri Hill, Project Manager, Sundance Consulting, Inc., 305 N 3rd Ave., Ste. B, Pocatello, ID 83201.

For written comments that are submitted via mail, specify the docket ID NRCS–2020–0007. All written comments received will be posted without change and publicly available on the website: *www.regulation.gov.*

FOR FURTHER INFORMATION CONTACT: Angela Biggs, telephone: (608) 662–4422, email: *angela.biggs@usda.gov.* In addition, for questions related to submitting comments via Sundance Hill Consulting: Keri Hill at (208) 274–9004, Fax (208) 478–2032, *khill@sundance-inc.net,* or the project website at: *www.wfkandccwatershed.com.*

SUPPLEMENTARY INFORMATION:

Purpose and Need

The primary purpose for watershed planning and preparation of an EIS is flood prevention and flood damage reduction in the Coon Creek Valley. Watershed planning was authorized under Public Law 83–566, the Watershed Protection and Flood Prevention Act of 1954, as amended, and Public Law 78–534, the Flood Control Act of 1944.

This proposed action is prepared under the authority of the Watershed Prevention and Flood Protection Act (Pub. L. 83–566). This action is needed because three flood control dams failed, and two additional dams over-topped during an 11-inch rainstorm on August 27–28, 2018. These dams are critical to prevent future flood damages and loss of life.

Initial agency scoping of this federally assisted action indicates that proposed alternatives may have significant local, regional, or national impacts on the environment. Angela Biggs, State Conservationist, has determined that the preparation of an EIS is needed. This EIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and NRCS regulations that implement NEPA in 7 CFR part 650.

Description

A watershed project plan was developed in 1958 to reduce flood damages in the Coon Creek Valley. Major problems in the watershed were floodwater damages to crops and pasture, fences, farmsteads, machinery, buildings, livestock, county and township roads and bridges, and urban areas of Coon Valley and Chaseburg. Fourteen flood control dams and a multitude of land treatment measures were implemented between 1961 and 1963 under the Watershed Protection and Flood Prevention Act of 1954, as amended in 1956.

On the night of August 27, 2018, two dams over-topped and three dams failed as a result of rainfall amounts up to 11 inches over a 6-hour period. The dams breached along the interface between the earthfill and bedrock abutments. Each breach extended full depth to the valley floor. No one was injured or killed. Large debris fields were observed downstream of the dams for about ¼ mile. An unoccupied house was moved off its foundation. Agricultural lands and road crossings were damaged. The Sponsors and NRCS are concerned about the commonality in breach descriptions. The consensus is that flow through the foundations during high pool stage contributed to the failures. A similar vulnerability may exist in the remaining 11 dams.

NRCS is proposing to develop a Watershed Project Plan (Planning-EIS) to evaluate alternatives to reduce flood damage in the Coon Creek valley including analysis of the flood control structures and the watershed. Watershed planning under the EIS will evaluate the effectiveness, environmental effects, and socio-economic impacts of the original project measures over the last 59 years. The results of these analyses will provide the context for determining the environmental, economic, and social effects of considered alternatives for additional (new) flood prevention or flood damage reduction measures. Potential impacts (beneficial and adverse) related to the project include modifications to ecological habitat, fish and wildlife resources, downstream effects, flood control capability, floodplain alteration, safety and engineering improvements, cultural resources, environmental justice, and recreation. An in-depth analysis of impacts will be evaluated for each alternative in the draft Planning-EIS. The focused planning area is 68,762 acres (107.4 square miles).

Scoping Process

Two scoping meetings will be held to present the project and develop the scope of the draft EIS. The first meeting was Wednesday, September 17, 2020 at the Coon Valley Legion Hall. Comments

received, including the names and addresses of those who comment, will be part of the public record. Scoping meeting presentation materials will be available on the project website when this notice is published: *www.wfkandccwatershed.com.* The date, time, and location for the second meeting will be announced on the project website.

Alternatives

The objective of the EIS is to formulate and evaluate alternatives for flood prevention or flood damage reduction in the Coon Creek Valley through the Village of Chaseburg. Alternatives to be evaluated include the repair, replacement, relocation, or removal of the three failed dams, final disposition of future dams that fail or require major rehabilitation, upland watershed treatments to reduce runoff, and land use changes in the floodplain.

Implementation of the proposed federal action would require a Clean Water Act (CWA) Section 404 permit from the U.S. Army Corps of Engineers. The project would also require water quality certification under Section 401 of the CWA. Permitting under Section 402 of the CWA (National Pollutant Discharge Elimination System Permit) may be required. Local dam safety and floodplain permits may be required dependent upon the selected alternative. A draft EIS will be prepared and circulated for review and comment by agencies and the public per 40 CFR 1503.1, 1502.20, 1506.11, 1502.17, and 7 CFR 650.13. The draft EIS is estimated to be complete and available for public review in 2021. NRCS invites agencies and individuals who have special expertise, legal jurisdiction, or interest in the Coon Creek Watershed to participate and identify potential alternatives.

Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this NOFA applies: 10.904 Watershed Protection and Flood Prevention- and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Angela Biggs,

Wisconsin State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2021–06050 Filed 3–23–21; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

[Docket No. NRCS–2020–0006]

Notice of Intent To Prepare an Environmental Impact Statement for the West Fork Kickapoo Watershed, Monroe and Vernon Counties, Wisconsin

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Natural Resources Conservation Service (NRCS) Wisconsin State Office announces its intent to prepare an EIS for the West Fork Kickapoo Watershed Project in the proximity of Cashton, Westby, Viroqua, and Liberty, Wisconsin. NRCS is requesting comments to identify significant issues and alternatives to be addressed in the EIS from all interested individuals. The EIS process will examine existing flood control measures and evaluate additional (new) alternatives identified during scoping.

DATES: We will consider comments that we receive by April 23, 2021. Comments received after this date will be considered to the extent possible.

ADDRESSES: We invite you to submit comments in response to this notice. You may submit your comments through one of the methods below:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for docket ID NRCS–2020–0006. Follow the online instructions for submitting comments; or
- *Mail or Hand Delivery:* Keri Hill, Project Manager, Sundance Consulting, Inc., 305 N 3rd Ave., Ste. B, Pocatello, ID 83201.

For written comments that are submitted via mail, specify the docket ID NRCS–2020–0006. All comments received will be posted without change and publicly available on *www.regulation.gov.*

FOR FURTHER INFORMATION CONTACT: Angela Biggs, telephone: 608–662–4422; email: *angela.biggs@usda.gov.* In addition, for questions related to submitting comments via Sundance Hill Consulting: Kari Hill at 202–274–9004, Fax (208) 478–2032, *khill@sundance-inc.net,* or the project website at: *www.wfkandccwatershed.com.* Persons with disabilities who require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Purpose and Need

The primary purpose for watershed planning and preparation of an EIS is flood prevention and flood damage reduction in the West Fork Kickapoo Valley. Watershed planning was authorized under Public Law 83–566, the Watershed Protection and Flood Prevention Act of 1954, as amended, and Public Law 78–534, the Flood Control Act of 1944.

This proposed action is prepared under the authority of the Watershed Prevention and Flood Protection Act (Pub. L. 83–566). This action is needed because two flood control dams failed, and two additional dams over-topped during an 11-inch rainstorm on August 27–28, 2018. These dams are critical to prevent future flood damages and loss of life.

Initial agency scoping of this federally assisted action indicates that proposed alternatives may have significant local, regional, or national impacts on the environment. Angela Biggs, State Conservationist, has determined that the preparation of an EIS is needed. This EIS will be prepared as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and NRCS regulations that implement NEPA in 7 CFR part 650.

Description

A watershed project plan was developed in 1961 to reduce flood damages in the West Fork Kickapoo Valley. Major problems in the watershed were floodwater damages to crops and pasture, fences, farmsteads, machinery, buildings, livestock, county and township roads and bridges, and urban areas in the Town of Liberty. Nine flood control dams and a multitude of land treatment measures were implemented between 1956 and 1971 under the Watershed Protection and Flood Prevention Act of 1954, as amended in 1956.

On the night of August 27, 2018, two dams over-topped and two dams failed as a result of rainfall amounts up to 11 inches over a 6-hour period. The dams breached along the interface between the earthfill and bedrock abutments. Each breach extended full depth to the valley floor. No one was injured or killed. Large debris fields were observed downstream of the dams for about ¼ mile. An unoccupied house was moved off its foundation. Agricultural lands and road crossings were damaged. The Sponsors and NRCS are concerned about the commonality in breach

descriptions. The consensus is that flow through the foundations during high pool stage contributed to the failures. A similar vulnerability may exist in the remaining seven dams.

NRCS is proposing to develop a Watershed Project Plan (Planning-EIS) to evaluate alternatives to reduce flood damage in the West Fork Kickapoo valley including analysis of the flood control structures and the watershed. Watershed planning under the EIS will evaluate the effectiveness, environmental effects, and socio-economic impacts of the original project measures over the last 64 years. The results of these analyses will provide the context for determining the environmental, economic, and social effects of considered alternatives for additional (new) flood prevention or flood damage reduction measures. Potential impacts (beneficial and adverse) related to the project include modifications to ecological habitat, fish and wildlife resources, downstream effects, flood control capability, floodplain alteration, safety and engineering improvements, cultural resources, environmental justice, and recreation. An in-depth analysis of impacts will be evaluated for each alternative in the draft Planning-EIS. The focused planning area is 63,761 acres (99.6 square miles).

Scoping Process

Two scoping meetings will be held to present the project and develop the scope of the draft EIS. The first meeting was Wednesday, September 16, 2020 at the Cashton Community Hall. Comments received, including the names and addresses of those who comment, will be part of the public record. Scoping meeting presentation materials will be available on the project website when this notice is published: *www.wfkandccwatershed.com.* The date, time, and location for the second meeting will be announced on the project website.

Alternatives

The objective of the EIS is to formulate and evaluate alternatives for flood prevention or flood damage reduction in the West Fork Kickapoo Valley through the Town of Liberty. Alternatives to be evaluated include the repair, replacement, relocation, or removal of the two failed dams, final disposition of future dams that fail or require major rehabilitation, upland watershed treatments to reduce runoff, and land use changes in the floodplain.

Implementation of the proposed federal action would require a Clean Water Act (CWA) Section 404 permit from the US Army Corps of Engineers. The project would also require water quality certification under Section 401 of the CWA. Permitting under Section 402 of the CWA (National Pollutant Discharge Elimination System Permit) may be required. Local dam safety and floodplain permits may be required dependent upon the selected alternative. A draft EIS will be prepared and circulated for review and comment by agencies and the public per 40 CFR 1503.1, 1502.20, 1506.11, 1502.17, and 7 CFR 650.13. The draft EIS is estimated to be complete and available for public review in 2021. NRCS invites agencies and individuals who have special expertise, legal jurisdiction, or interest in the West Fork Kickapoo Watershed to participate and identify potential alternatives.

Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this NOFA applies: 10.904 Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Angela Biggs,

Wisconsin State Conservationist, Natural Resources Conservation Service.

[FR Doc. 2021–06049 Filed 3–23–21; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–23–2021]

Foreign-Trade Zone (FTZ) 7—Mayaguez, Puerto Rico; Notification of Proposed Production Activity; IPR Pharmaceuticals, Inc.; (Pharmaceutical Products); Canovanas, Puerto Rico

IPR Pharmaceuticals, Inc., (IPR Pharmaceuticals) submitted a notification of proposed production activity to the FTZ Board for its facility in Canovanas, Puerto Rico. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 15, 2021.

IPR Pharmaceuticals already has authority to produce certain pharmaceutical products within FTZ 7. The current request would add a finished product and foreign status material to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt IPR Pharmaceuticals from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below and in the existing scope of authority, IPR Pharmaceuticals would be able to choose the duty rate during customs entry procedures that applies to FARXIGA\FORXIGA (dapagliflozin) tablets (duty-free). IPR Pharmaceuticals would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material sourced from abroad is dapagliflozin active pharmaceutical ingredient (duty rate 6.5%). The request indicates the foreign-status material is subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 3, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov.*

Dated: March 19, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–06064 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2021]

Foreign-Trade Zone (FTZ) 123—Denver, Colorado, Notification of Proposed Production Activity; Lockheed Martin Corporation, Lockheed Martin Space (Satellites and Other Spacecraft), Littleton, Colorado

Lockheed Martin Corporation, Lockheed Martin Space (formerly

Lockheed Martin Space Systems Company) (Lockheed Martin) submitted a notification of proposed production activity to the FTZ Board for its facility in Littleton, Colorado. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 17, 2021.

Lockheed Martin already has authority to produce satellites and other spacecraft for space-based use and subsystems for satellites and other spacecraft within Subzone 123G. The current request would add three foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Lockheed Martin from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Lockheed Martin would be able to choose the duty rates during customs entry procedures that apply to satellites and other craft for space-based use and subsystems for satellites and other spacecraft (duty-free). Lockheed Martin would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include rechargeable lithium-ion batteries, electric thrusters, and payload adapter assemblies (duty rate ranges from duty-free to 3.4%). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 3, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: March 19, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–06063 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–887]

Carbon and Alloy Steel Cut-To-Length Plate From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty order on carbon and alloy steel cut-to-length plate from the Republic of Korea. The period of review (POR) is May 1, 2018, through April 30, 2019. The review covers one producer/exporter of the subject merchandise, POSCO/POSCO International Corporation and its affiliated companies (collectively, the POSCO single entity). We determine that sales of subject merchandise by the POSCO single entity were not made at prices below normal value (NV).

DATES: Applicable March 24, 2021.

FOR FURTHER INFORMATION CONTACT: Joshua Simonidis or William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0608 or (202) 482–4868, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on July 27, 2020.[1] We invited interested parties to comment on the *Preliminary Results.* For a complete description of the events that occurred subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Scope of the Order [3]

The merchandise subject to the *Order* is carbon and alloy steel cut-to-length plate. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigations may also enter under the following HTSUS subheadings: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7206.11.1000, 7226.11.9060, 7229.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the *Order* is dispositive. For a complete description of the scope of the *Order, see* the *Preliminary Results.*[4]

Analysis of Comments Received

All issues raised in the parties' case and rebuttal briefs are addressed in the Issues and Decision Memorandum and 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

[1] *See Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Antidumping Duty Review; 2018–2019;* 85 FR 45165 (July 27, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results in the 2018–2019 Antidumping Duty Administrative Review of Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders,* 82 FR 24096 (May 25, 2017) (*Order*).

[4] *See Preliminary Results* PDM at 3–7.

directly on the internet at *http://enforcement.trade.gov/frn/index.html.*

Changes Since the Preliminary Results

Based on the comments received from interested parties and record information, we made certain changes to our preliminary dumping margin calculations for the POSCO single entity. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Results of the Review

As a result of this review, we determine the following weighted-average dumping margin exists for the POR:

Exporter or producer	Weighted-average dumping margin (percent)
POSCO single entity [5]	00.00

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with section 751(a) of the Act and 19 CFR 351.224(b).

Assessment Rates

Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review.[6] Because the weighted-average dumping margin for the POSCO single entity is zero percent, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[7]

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[8]

Consistent with its recent notice,[9] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the POSCO single entity will be equal to the weighted-average dumping margin established in the final results of this administrative review (*i.e.,* zero percent); (2) for merchandise exported by a producer or exporter not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the producer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 7.10 percent *ad valorem,* the all-others rate established in the LTFV investigation.[10]

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 18, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. The POSCO Single Entity
IV. Changes Since the Preliminary Results
V. Discussion of the Issues

[5] Commerce continues to determine that POSCO, POSCO International Corporation (successor in interest to POSCO Daewoo Corporation), POSCO Processing & Service Co., Ltd., and certain distributors and service centers (Taechang Steel Co., Ltd., Winsteel Co., Ltd., Moonbae Steel Co., Ltd., Dae Dong Steel Co., Ltd., Shinjin Esco Co., Ltd., and Shilla Steel Co., Ltd.) are affiliated pursuant to section 771(33)(E) of the Tariff Act of 1930, as amended (the Act), and that these companies should be treated as a single entity (collectively, the POSCO single entity) pursuant to 19 CFR 351.401(f). Our collapsing determination with respect to Moonbae Steel Co., Ltd. and Dae Dong Steel Co., Ltd. relates only to the portion of the POR during which these companies were affiliated with POSCO, *i.e.,* from May 1, 2018 to July 2, 2018, and from May 1, 2018 to June 20, 2018, respectively. *See Preliminary Results* and PDM at 9–10; *see also* Memorandum, ''2018–2019 Antidumping Duty Administrative Review of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Affiliation and Collapsing Memorandum,'' dated July 20, 2020.

[6] *See* 19 CFR 351.212(b).

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012).

[8] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[9] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

[10] *See Order,* 82 FR at 24098.

Comment 1: Affiliation Between POSCO and Shilla Steel Co., Ltd.
Comment 2: Home Market Freight Revenue Capping
Comment 3: Freight Revenue Reported as Billing Adjustments
Comment 4: POSCO International Corporation's Plate Fabricating Division
Comment 5: Application of Adverse Facts Available (AFA) to POSCO's Conversion Costs
Comment 6: Application of AFA for POSCO's Service Centers' Reporting
VI. Recommendation

[FR Doc. 2021–06068 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–834]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Italy: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), May 1, 2018, through April 30, 2019. Additionally, Commerce determines that a company for which we initiated a review had no shipments during the POR.

DATES: Applicable March 24, 2021.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4682 or (202) 482–3693, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers seven producers and/or exporters of the subject merchandise. Commerce selected two companies, NLMK Verona SpA (NVR) and Officine Tecnosider s.r.l. (OTS), for individual examination. The producers and/or exporters not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

On July 22, 2020, Commerce published the *Preliminary Results*.[1] In August 2020, certain of the petitioners [2] and NVR submitted case and rebuttal briefs. For a description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.[4] On December 30, 2020, we extended the deadline for the final results by 60 days, until March 18, 2021.[5] The deadline for the final results of this review is now March 18, 2021.

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances from Italy. Products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[6]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum. 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 *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Determination of No Shipments

As noted in the *Preliminary Results,* we received a no shipment claim from one company involved in this administrative review, Lyman Steel Company (Lyman). In the *Preliminary Results,* we preliminarily determined that Lyman had no reviewable transactions during the POR. We received no comments from interested parties with respect to this claim. Therefore, because the record indicates that this company did not export subject merchandise to the United States during the POR, we continue to find that Lyman had no reviewable transactions during the POR. Accordingly, consistent with Commerce's practice, we intend to instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of merchandise produced by Lyman, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.[7]

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made no changes to the preliminary weighted-average margin calculations for OTS, NVR, or for those companies not selected for individual review.[8]

Final Results of the Review

We continue to assign the following weighted-average dumping margins to the firms listed below for the period May 1, 2018, through April 30, 2019:

Producer/exporter	Weighted-average dumping margin (percent)
NLMK Verona SpA	1.39

[1] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 85 FR 44283 (July 22, 2020) (*Preliminary Results*).

[2] This company is Nucor Corporation.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy,'' dated concurrently with, and hereby adopted by, these results (Issues and Decision Memorandum).

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[5] *See* Memorandum, ''Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy; 2018–2019 Administrative Review: Extension of Deadline for Final Results,'' dated December 30, 2020.

[6] For a full description of the scope of the order, *see* Issues and Decision Memorandum.

[7] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[8] *See* Issues and Decision Memorandum.

Producer/exporter	Weighted-average dumping margin (percent)
Officine Tecnosider s.r.l	1.23
Review-Specific Average Rate Applicable to the Following Companies[9]	
O.ME.P SpA	1.30
Ofar SpA	1.30
Sesa SpA	1.30
Tim-Cop Doo Temerin	1.30

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Where the respondent did not report entered value or reported amounts based on average data, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies which were not selected for individual review, we will assign an assessment rate based on the publicly-ranged weighted average[10] of the cash deposit rates calculated for NVR and OTS. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[11]

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. As indicated above, for Lyman, we will instruct CBP to liquidate any existing entries of merchandise produced by Lyman, but exported by other parties, at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Consistent with its recent notice,[12] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.08 percent, the all-others rate established in the LTFV investigation.[13] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is being issued in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213.

Dated: March 18, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
  Comment 1: NVR's Sales of Non-Prime and Overrun Merchandise
  Comment 2: NVR's Cost Differences Unrelated to Defined Physical Characteristics
  Comment 3: NVR's Costs for Merchandise Produced Prior to the Period of Review (POR)
  Comment 4: Whether Section 232 Duties Should be Deducted from U.S. Price
V. Recommendation

[FR Doc. 2021–06062 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–DS–P

[9] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See* section 735(c)(5)(A) of the Act; *see also* Memorandum, ''Preliminary Results of the Antidumping Administrative Review of Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy: Calculation of the Cash Deposit Rate for Non-Reviewed Companies,'' dated July 6, 2020.

[10] *Id.*

[11] *See* section 751(a)(2)(C) of the Act.

[12] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 884 (January 15, 2021).

[13] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea, and Taiwan, and Antidumping Duty Orders,* 82 FR 24096, 24098 (May 25, 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–808]

Agreement Suspending the Antidumping Investigation of Certain Cut-To-Length Carbon Steel Plate From Ukraine: Preliminary Results of 2018–2019 Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine (Agreement). We preliminarily find that signatory Ukrainian producers/exporters Azovstal Iron & Steel Works (Azovstal) and Ilyich Iron and Steel Works (Ilyich), which are subsidiaries of Metinvest Holding LLC (Metinvest), and were individually examined in this review, are in compliance with the Agreement and that the Agreement is meeting the statutory requirements under sections 734(b) and (d) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is November 1, 2018 through October 31, 2019.

DATES: Applicable March 24, 2021.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Jill Buckles, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–6230, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2008, Commerce signed an agreement with Ukrainian producers/exporters Azovstal, Ilyich, and OJSC Alchevsk Iron and Steel Works (Alchevsk) under section 734(b) of the Act, suspending the antidumping duty investigation of certain cut-to-length carbon steel plate (CTL plate).[1] On November 27, 2019, domestic interested party Nucor Corporation (Nucor) submitted a request for an administrative review of the Agreement.[2] On January 17, 2020, Commerce published in the **Federal Register** a notice initiating an administrative review of the Agreement.[3] The period of review (POR) is November 1, 2018 through October 31, 2019.

For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.[4] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of Review

For purposes of this Agreement, the products covered are hot-rolled iron and non-alloy steel universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject merchandise in the Agreement are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'') for example, products which have been bevelled or rounded at the edges.

This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of the Agreement is dispositive. Specifically excluded from subject merchandise within the scope of the Agreement is grade X–70 plate.

Methodology and Preliminary Results

Commerce is conducting this review in accordance with section 751(a)(1)(C) of the Act, which specifies that Commerce shall ''review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.'' In this case, Commerce and Ukrainian producers/exporters Azovstal, Ilyich, and Alchevsk signed the Agreement on September 29, 2008 under section 734(b) of the Act. Section 734(b) provides that Commerce may suspend an investigation if the exporters of the subject merchandise who account for substantially all of the imports of that merchandise agree to revise their prices to eliminate completely any amount by which the normal value (NV) of the merchandise which is the subject of the agreement exceeds the export price (or the constructed export price) of that merchandise. In addition, section 734(d) of the Act requires that Commerce be satisfied that suspension of the investigation is in the public interest and that effective monitoring of the agreement is practicable.

Under sections C and D of the Agreement, a signatory producer/exporter requesting NVs pursuant to the Agreement agrees not to sell its subject merchandise to any unaffiliated purchaser in the United States at prices that are less than the NV of the merchandise, as determined by Commerce based on the company's submitted sales and cost information. Azovstal and Ilyich are the only signatory producers/exporters that requested, and for which Commerce calculated, NVs during the POR. Alchevsk made no such request for NVs during the POR. Therefore, for purposes of this administrative review, Commerce determined to individually examine, and issue a questionnaire to, Azovstal and Ilyich. Commerce discusses additional business proprietary details regarding Alchevsk in a separate

[1] *See Suspension of Antidumping Investigation: Certain Cut-to-Length Carbon Steel Plate From Ukraine,* 73 FR 57602 (October 3, 2008) (Agreement).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 84 FR 58690 (November 1, 2019); and Letter from Nucor, ''Certain Cut-to-Length Carbon Steel Plate from Ukraine: Request for Administrative Review,'' dated November 27, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 3014 (January 17, 2020).

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2018–2019 Administrative Review of the Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine,'' dated concurrently with and adopted by this notice (Preliminary Decision Memorandum).

proprietary memorandum.[5] After reviewing the information submitted in its initial and supplemental questionnaire responses, we preliminarily find Azovstal and Ilyich, collectively participating as Metinvest, to be in compliance with the terms of the Agreement during the POR. A review of the information submitted demonstrates that, pursuant to sections D(1) and D(2) of the Agreement, Metinvest reported to Commerce the sales and data required by the Agreement for calculation of the NVs. Therefore, Commerce preliminary finds Metinvest to be in compliance with the monitoring sections D(1) and D(2) of the Agreement and that the Agreement continues to meet the statutory requirement, pursuant to section 734(d)(2) of the Act of being able to be effectively monitored.

Metinvest, in its initial questionnaire response, describes how it ensures compliance with the Agreement's pricing terms and the relevant NV period in making sales directly to unaffiliated U.S. customers and in arranging shipment to the United States.[6] A review of the information in the initial and supplemental questionnaire responses finds no evidence of non-compliance by Metinvest with respect to ensuring that subject merchandise is sold in the United States at prices that are at or above the applicable NV determined by Commerce. Therefore, Commerce preliminarily finds that the Agreement is continuing to meet the statutory requirements section of section 734(b) of the Act.

With regard to the requirements of 734(d) of the Act, Commerce preliminarily finds that the Agreement continues to be in the public interest and that effective monitoring of the Agreement continues to be practicable. As Commerce preliminarily finds no evidence during the POR that Metinvest made sales of subject merchandise below the applicable NV, Commerce preliminarily finds that the Agreement continues to benefit U.S. producers by ensuring that imports of the subject merchandise are fairly traded and are not, therefore, negatively impacting the competitiveness of the domestic industry. Moreover, as Commerce preliminarily finds no evidence of non-compliance by Metinvest with the Agreement's extensive information reporting requirements, Commerce preliminarily finds that effective monitoring of the Agreement continues to be practicable. In addition, in the context of this administrative review, no party has alleged that the Agreement is no longer in the public interest or that the Agreement can no longer be effectively monitored. Accordingly, and in light of our preliminary finding that the respondents are in compliance with the statutory requirements of the Agreement, we preliminarily find that the Agreement continues to meet the criteria of sections 734(b) and (d) of the Act.

[5] *See* Memorandum, ''2018–2019 Administrative Review of the Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine: Preliminary Analysis Proprietary Memorandum,'' dated concurrently with and adopted by this notice.

[6] *See* Metinvest's Letter, ''Sections A, B, and C Initial Questionnaire Response,'' dated March 5, 2020 at 19.

Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to provide: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8] All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request filed electronically via ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.[10] Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

These preliminary results of review are being issued and published in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213.

Dated: March 18, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–06061 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] *See Temporary Rule.*

[10] *See* 19 CFR 351.310(c).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–812]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Belgium: Final Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that the producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR), May 1, 2018, through April 30, 2019.

DATES: Applicable March 24, 2021.

FOR FURTHER INFORMATION CONTACT: Alex Wood, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1959.

SUPPLEMENTARY INFORMATION:

Background

This review covers four producers and/or exporters of the subject merchandise. Commerce selected two companies, Industeel Belgium S.A. (Industeel) and NLMK Clabecq S.A./NLMK Plate Sales S.A./NLMK Sales Europe S.A./NLMK Manage Steel Center S.A./NLMK La Louviere S.A. (collectively, NLMK Belgium), for individual examination. The producers and/or exporters not selected for individual examination are listed in the ''Final Results of the Review'' section of this notice.

On July 24, 2020, Commerce published the *Preliminary Results.*[1] In September 2020, certain petitioners,[2]

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 44854 (July 24, 2020) (*Preliminary Results*).

[2] This company is Nucor Corporation.

Industeel, and NLMK Belgium submitted case and rebuttal briefs.[3] For a description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.[5] On December 30, 2020, we extended the deadline for the final results by 60 days, until March 18, 2021.[6] The deadline for the final results of this review is now March 18, 2021.

Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other nonmetallic substances from Belgium. Products subject to the order are currently classified in the Harmonized Tariff Schedule on the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[7]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum.[8] Interested parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the preliminary weighted-average margin calculations for Industeel and for those companies not selected for individual review.[9]

Final Results of the Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period May 1, 2018 through April 30, 2019:

Producers/exporters	Weighted-average dumping margin (percent)
Industeel Belgium S.A	4.57
NLMK Clabecq S.A./NLMK Plate Sales S.A./NLMK Sales Europe S.A./NLMK Manage Steel Center S.A./NLMK La Louviere S.A	12.29
Review-Specific Average Rate Applicable to the Following Companies[10]	
Stahlo Stahl Service GmbH & Co. KG	8.43
Tranter Service Centers	8.43

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), where Industeel and NLMK Belgium reported the entered value of their U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where the respondents did not report entered value, we calculated the entered value in order to calculate the assessment rate. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the companies which were not selected for individual review, we will assign an assessment rate based on the simple average[11] of the cash deposit rates calculated for Industeel and NLMK Belgium. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[12]

Commerce's ''automatic assessment'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading

[3] *See* Petitioner's Case Brief, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium: Nucor's Case Brief,'' dated September 8, 2020; Industeel's Case Brief, ''Antidumping Duty Administrative Review of Carbon and Alloy Steel Cut-To-Length Plate from Belgium: Industeel's Case Brief,'' dated September 8, 2020; NLMK Belgium's Case Brief, ''Certain Carbon and Alloy Cut-to-Length Plate from Belgium: Case Brief,'' dated September 8, 2020, Petitioner's Rebuttal Brief, ''Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium: Nucor's Rebuttal Brief,'' dated September 15, 2020; Industeel's Rebuttal Brief, ''Antidumping Duty Administrative Review of Carbon and Alloy Steel Cut-To-Length Plate from Belgium: Industeel Rebuttal Brief,'' dated September 15, 2020; and NLMK Belgium's Rebuttal Brief, ''Certain Carbon and Alloy Cut-to-Length Plate from Belgium: Rebuttal Brief,'' dated September 15, 2020.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2018–2019 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium,'' dated concurrently with these results (Issues and Decision Memorandum), which is hereby adopted by this notice.

[5] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020. Because the *Preliminary Results* published on July 24, 2020, three days after this tolling memorandum, the deadline for these final results was tolled by 57 days.

[6] *See* Memorandum, ''Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium; 2018–2019 Administrative Review: Extension of Deadline for Final Results,'' dated December 20, 2020.

[7] For a full description of the scope of the order, *see* Issues and Decision Memorandum.

[8] *Id.*

[9] *See* accompanying Issues and Decision Memorandum.

[10] This rate is based on the simple average of the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See* section 735(c)(5)(A) of the Act. *See* Memorandum, ''Final Results of the Antidumping Administrative Review of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium: Calculation of the Cash Deposit Rate for Non-Reviewed Companies,'' dated March 18, 2021.

[11] *Id.*

[12] *See* section 751(a)(2)(C) of the Act.

company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Consistent with its recent notice,[13] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.40 percent, the all-others rate established in the LTFV investigation.[14] These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is being issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213.

Dated: March 18, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Margin Calculations
V. Discussion of Issues
Comments Pertaining to Industeel
Comment 1: Offset for Section 232 Liabilities
Comment 2: Payments Related to Section 232 Liabilities
Comment 3: Application of Adverse Facts Available to U.S. Inland Freight
Comments Pertaining to NLMK Belgium
Comment 4: Constructed Export Price Offset
Comment 5: Affiliated Party Major Input Adjustment
VI. Recommendation

[FR Doc. 2021–06067 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–DS–P

[13] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 884 (January 15, 2021).

[14] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Determinations for France, the Federal Republic of Germany, the Republic of Korea and Taiwan, and Antidumping Duty Orders,* 82 FR 24096, 24098 (May 25, 2017).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA957]

Endangered and Threatened Species; Announcement of a Recovery Planning Workshop To Inform Recovery Planning for 15 ESA Listed Indo-Pacific Coral Species

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

ACTION: Notice.

SUMMARY: On September 10, 2014, we, NMFS, listed 15 Indo-Pacific coral species as threatened under the Endangered Species Act (ESA). We are convening a workshop to solicit facts and information from experts to help identify and guide recovery needs for these species under section 4(f) of the ESA. We will not be asking for a consensus recommendation on how to recover these species. This workshop will be open to the public.

DATES: *Workshop dates and information:* We will hold the recovery planning workshop for these coral species virtually over the course of four three-hour sessions in May 2021. To accommodate participants from different time zones, we will duplicate each session, as follows:

- Week 1—Session I: Recovery Introduction
  - Option A: Wednesday May 5, 8–11 a.m. Hawaii Standard Time (HST);
  - Option B: Thursday May 6, 2–5 p.m. HST.
- Week 2—Session II: Recovery Approaches
  - Option A: Wednesday May 12, 8–11 a.m. HST;
  - Option B: Thursday May 13, 2–5 p.m. HST.
- Week 3—Session III: Recovery Criteria
  - Option A: Wednesday May 19, 8–11 a.m. HST;
  - Option B: Thursday May 20, 2–5 p.m. HST.
- Week 4—Session IV: Recovery Actions
  - Option A: Wednesday May 26, 8–11 a.m. HST;
  - Option B: Thursday May 27, 2–5 p.m. HST.

RSVP date: If you plan to attend the workshop as an interested member of the public, please contact Danielle Jayewardene, NMFS Pacific Islands Regional Office (PIRO) Protected Resources Division, *danielle.jayewardene@noaa.gov,* 808–725–5143 no later than April 21, 2021.

FOR FURTHER INFORMATION CONTACT: Danielle Jayewardene, NMFS Pacific Islands Regional Office (PIRO) Protected Resources Division, *danielle.jayewardene@noaa.gov,* 808–725–5143.

SUPPLEMENTARY INFORMATION:

Background

On September 10, 2014, we, NMFS, listed 15 Indo-Pacific coral species as threatened under the Endangered Species Act (ESA)(79 FR 53851; September 10, 2014). The 15 listed species are *Acropora globiceps, Acropora jacquelineae, Acropora lokani, Acropora pharaonis, Acropora retusa, Acropora rudis, Acropora speciosa, Acropora tenella, Anacropora spinosa, Euphyllia paradivisa, Isopora crateriformis, Montipora australiensis, Pavona diffluens, Porites napopora,* and *Seriatopora aculeata.* The final listing rule describes the background of the listing action for these species and provides a summary of our conclusions regarding their status. For additional background and information about these species, the reader is referred to our species web pages (available at *https://www.fisheries.noaa.gov/corals#by-species*).

NMFS is required by section 4(f) of the ESA to develop and implement recovery plans for the conservation and survival of federally listed species unless the Secretary finds that such a plan will not promote the conservation of the species. Recovery means that listed species and their ecosystems are restored, and their future secured, so that the protections of the ESA are no longer necessary. The ESA specifies that recovery plans are to include (1) a description of site-specific management actions necessary to achieve the plan's goals for the conservation and survival of the species; (2) objective, measurable criteria which, when met, would result in the species being removed from the list; and (3) estimates of the time and costs required to carry out the actions and achieve the plan's conservation goals. Under section 4(f) of the ESA, public notice and an opportunity for public review and comment are also provided during recovery plan development.

This notice serves as the first public notice and opportunity for public input early in the process. Once a recovery plan has been drafted, it will be announced in the **Federal Register** and available on our website (see **ADDRESSES** section) for public review and comment before being finalized.

Recovery Planning Workshop Announcement

From Wednesday May 5, 2021 through Thursday May 27, 2021, NMFS will hold a virtual workshop in four sessions to help inform our recovery planning for these 15 coral species (see **DATES** section). We are inviting experts and stakeholders in specific topic areas, including the species' biology/ecology, threats to the species and the species' habitat, the recovery planning process itself, and coral and coral reef conservation and management. These experts and stakeholders will help us to identify potential actions to address the threats to the species, identify gaps in knowledge and associated research needs, as well as begin developing recovery criteria for the species. Identified experts and stakeholders include representatives of Federal and state agencies, scientific experts, and individuals from conservation partners and nongovernmental organizations.

NMFS will provide a moderator to manage the workshop as well as note takers to document input received. We are seeking facts and information; we will not be asking for consensus recommendations on how to recover these 15 coral species. NMFS will prepare a summary of the workshop, noting the main points raised by the participants.

This workshop will be open to the public, and a public comment period will be provided at the end of each session. If you plan to attend the workshop as an interested member of the public, please contact Danielle Jayewardene at the address listed above by April 21, 2021, so we can ensure sufficient online connectivity for participants and interested parties during our logistics planning.

Agenda

- May 5/May 6 Session I will focus on introducing ESA recovery planning for the listed Indo-Pacific coral species.
- May 12/May 13 Session II will focus on recovery approaches for the listed Indo-Pacific coral species.
- May 19/May 20 Session III will focus on recovery criteria for the listed Indo-Pacific coral species.
- May 26/May 27 Session IV will focus on recovery actions for the listed Indo-Pacific coral species.

The workshop is accessible to persons with disabilities. Send requests for accessibility accommodations by April 21, 2021 to Danielle Jayewardene, *danielle.jayewardene@noaa.gov,* 808–725–5143.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 19, 2021.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–06081 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA959]

Marine Mammals; File No. 25581

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Freedive Pictures, Ltd, St. Stephens Avenue Bristol, United Kingdom, BS1 1YL, (Responsible Party: Sophie Morgan), has applied in due form for a permit to conduct commercial or educational photography on marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before April 23, 2021.

ADDRESSES: These documents are available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 25581 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D. or Erin Markin, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to film marine mammals in Hawaii, California, and Alaska for a film showcasing the wonders of the Pacific Ocean. Above water or underwater filming may occur from land, vessels, or an unmanned aircraft system. Species to be filmed in the day or night include up to 1,750 humpback whales (*Megaptera novaeangliae;* Hawaii distinct

population segment), 200 gray whales (*Eschrichtius robustus*), 100 killer whales (*Orcinus orca*), 200 harbor porpoises (*Phocoena phocoena*), 200 Dall's porpoises (*Phocoenoides dalli*), 800 bottlenose dolphins (*Tursiops truncatus*), 1,000 spinner dolphins (*Stenella longirostris*), 1,500 short-beaked common dolphins (*Delphinus delphis),* 1,500 long-beaked common dolphin (*Delphinus capensis*), 600 Pacific white sided dolphin (*Lagenorhynchus obliquidens*), 300 pantropical spotted dolphin (*Stenella attenuata*), 300 harbor seals (*Phoca vitulina*), and 2,000 California sea lions (*Zalophus californianus*), annually. The permit would be valid for two years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 19, 2021.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–06056 Filed 3–23–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–29]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–29 with attached Policy Justification.

Dated: March 19, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

March 16, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-29 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the Netherlands for defense articles and services estimated to cost $190 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 21–29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$ 0 million
Other	$190 million
TOTAL	$190 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales Case NE-B-WJP, implemented on December 29, 2016, was below congressional notification threshold at $77.3 million for the Royal Netherlands Air Force AH-64 pilot training program and logistics support at Fort Hood, Texas. The Netherlands has requested the case be amended to include additional support, which will push the current case above the notification threshold and thus requires notification of the entire case.

Major Defense Equipment (MDE): None

Non-MDE: Support for the Royal Netherlands Air Force AH-64 training program, to include fuel; base operating support; facilities; publications and technical documentation; pilot training;

AH-64D to AH-64E conversion training support; personnel training and training equipment; weapon system and software support; U.S. Government and contractor technical, engineering, and logistics personnel services; and other related elements of logistical and program support.

(iv) *Military Department:* Army (NE-B-WJP)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* March 16, 2021

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Netherlands—AH-64 Pilot Training and Logistics Support

The Government of the Netherlands has requested support for the Royal Netherlands Air Force AH-64 training program, to include fuel; base operating support; facilities; publications and technical documentation; pilot training; AH-64D to AH-64E conversion training support; personnel training and training equipment; weapon system and software support; U.S. Government and contractor technical, engineering, and logistics personnel services; and other related elements of logistical and program support. The total overall estimated value is $190 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO ally which is an important force for political stability and economic progress in Europe.

The proposed sale will improve the Netherlands' capability to maintain a set of highly trained and deployment-ready Royal Netherlands Air Force Apache units via continued training activities at Fort Hood, Texas. This training includes the AMERICAN FALCON exercise, which serves as a certifying event for Dutch military units and personnel to deploy abroad, often supporting U.S.-led coalition operations. The Netherlands will have no difficulty absorbing this training and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

This proposed sale does not contain any principal contractor. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2021–06048 Filed 3–23–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 21–28]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 21–28 with attached Policy Justification.

Dated: March 19, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

March 16, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-28 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the Netherlands for defense articles and services estimated to cost $125 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Heidi H. Grant
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BILLING CODE 5001–06–C

Transmittal No. 21–28

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$ 0 million
Other	$125 million
TOTAL	$125 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Foreign Military Sales Case NE-B-WJO, implemented on December 28, 2016, was below congressional notification threshold at $59.8 million for the Royal Netherlands Air Force CH-47 pilot training program and logistics support at Fort Hood, Texas. The Netherlands has requested the case be amended to include additional support, which will push the current case above the notification threshold and thus requires notification of the entire case.

Major Defense Equipment (MDE): None

Non-MDE: Support for the Royal Netherlands Air Force CH-47 training program, to include fuel; base operating support; facilities; publications and technical documentation; pilot training; personnel training and training equipment; weapon system and software support; U.S. Government and contractor technical, engineering, and

logistics personnel services; and other related elements of logistical and program support.

(iv) *Military Department:* Army (NE-B-WJO)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* March 16, 2021

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Netherlands—CH-47 Pilot Training and Logistics Support

The Government of the Netherlands has requested support for the Royal Netherlands Air Force CH-47 training program, to include fuel; base operating support; facilities; publications and technical documentation; pilot training; personnel training and training equipment; weapon system and software support; U.S. Government and contractor technical, engineering, and logistics personnel services; and other related elements of logistical and program support. The total overall estimated value is $125 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a NATO ally which is an important force for the political stability and economic progress in Europe.

The proposed sale will improve the Netherlands' capability to maintain a set of highly trained and deployment-ready Royal Netherlands Air Force Chinook units via continued training activities at Fort Hood, Texas. This training includes the AMERICAN FALCON exercise, which serves as a certifying event for Dutch military units and personnel to deploy abroad, often supporting U.S.-led coalition operations. The Netherlands will have no difficulty absorbing this training and support into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

This proposed sale does not contain any principal contractor. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2021–06047 Filed 3–23–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Army Corps of Engineers

National Wetland Plant List

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The National Wetland Plant List (NWPL) provides plant species indicator status ratings, which are used in determining whether the hydrophytic vegetation factor is met when conducting wetland delineations under the Clean Water Act and wetland determinations under the Wetland Conservation Provisions of the Food Security Act. Other applications of the NWPL include wetland restoration, establishment, and enhancement projects. To update the NWPL, U.S. Army Corps of Engineers (USACE), as part of an interagency effort with the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS) and the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS), is announcing the availability of the draft changes to the 2020 NWPL and its web address to solicit public comments. The public will now have the opportunity to comment on the proposed changes to wetland indicator status ratings for five plant species in select regions and the addition of 22 new plant species to the NWPL.

DATES: Comments must be submitted on or before May 24, 2021.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW–CO–R, 441 G Street NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Brianne McGuffie, Headquarters, U.S. Army Corps of Engineers, Operations and Regulatory Community of Practice, Washington, DC 20314–1000, by phone at 202–761–4750 or by email at *brianne.e.mcguffie@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Background

USACE administers the NWPL for the United States (U.S.) and its territories. Responsibility for the NWPL was transferred to USACE from the FWS in 2006. The NWPL has undergone several revisions since its inception in 1988. Additions or deletions to the NWPL represent new records, range extensions, nomenclatural and taxonomic changes, and newly proposed species. The latest review process began in 2020 and included review by Regional Panels (RPs) and the National Panel (NP).

Wetland Indicator Status Ratings

On the NWPL, there are five categories of wetland indicator status ratings, used to indicate a plant's likelihood for occurrence in wetlands versus non-wetlands: Obligate Wetland (OBL), Facultative Wetland (FACW), Facultative (FAC), Facultative Upland (FACU), and Upland (UPL). These rating categories are defined by the NP as follows: OBL—almost always occur in wetlands; FACW—usually occur in wetlands, but may occur in non-wetlands; FAC—occur in wetlands and non-wetlands; FACU—usually occur in non-wetlands, but may occur in wetlands; UPL—almost always occur in non-wetlands. These category definitions are qualitative descriptions that better reflect the qualitative supporting information, rather than numeric frequency ranges. The percentage frequency categories used in the older definitions are only used for testing problematic or contested species being recommended for indicator status changes. Plus and minus designations and wetland indicator designations such as No Indicator (NI), No Occurrence (NO), and No Agreement (NA) were removed in 2012 and are no longer used on the NWPL. More information on the specifics of how to use these ratings is available on the NWPL website at *http://wetland-plants.usace.army.mil/.*

The NWPL is utilized in conducting wetland delineations under the authority of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (3 3 U.S.C. 401 *et seq.*) and wetland determinations under the authority of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*). For the purposes of determining how often a species occurs in wetlands, wetlands are defined as either (1) those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (33 CFR 328.3) or (2) ''except when such term is part of the term 'converted wetland,' means land that has a predominance of hydric soils; is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and under

normal circumstances does support a prevalence of such vegetation, except that this term does not include lands in Alaska identified as having a high potential for agricultural development and a predominance of permafrost soils.'' (16 U.S.C. 3801(a)(27) and 7 CFR 12.2). Because each plant species being evaluated occurs as part of a vegetation assemblage, examining all species present in relation to their assigned wetland fidelity may be useful in assessing hydrophytic vegetation.

2020 Update Information

For the 2020 NWPL update, the NWPL NP and RPs reviewed proposed wetland rating changes or additions for 27 species and 48 regional ratings (some species were reviewed for multiple regions) submitted by the public. Twenty-two of these species were proposed for addition to the NWPL, and five species were submitted for a rating change request in one or more regions. Submitted information was reviewed by the NP and RPs, and proposed 2020 ratings for these species were determined, as detailed below. Note that all submitted species are included here, regardless of whether or not the NP and RPs proposed a rating change. Hence, for those species where a rating change request was submitted but review of the submitted information did not result in a rating change for the 2020 update, the current and proposed ratings are the same. In several cases, it was determined that a species recommended for addition did not occur within the region recommended (per USDA PLANTS). In these cases, no proposed species addition or indicator status was carried forward.

Species	Region	Current 2018 NWPL rating *	Proposed 2020 NWPL rating
Aconitum noveboracense	MW	NL	FACW
Aconitum noveboracense	NCNE	NL	FAC
Aeschynomene virginica	AGCP	NL	OBL
Apios priceana	AGCP	NL	FACU
Apios priceana	EMP	NL	FACU
Apios priceana	MW	NL	FACU
Asclepias meadii	EMP	NL	FACU
Asclepias meadii	MW	NL	FACU
Asplenium scolopendrium	EMP	NL	FACU
Asplenium scolopendrium	NCNE	NL	UPL
Atriplex lentiformis	AW	FAC	FACU
Boltonia decurrens	MW	NL	FAC
Celastrus orbiculatus	NCNE	UPL	FACU
Cirsium pitcheri	MW	NL	FACU
Cirsium pitcheri	NCNE	NL	UPL
Dalea foliosa	NCNE	NL	FAC
Dalea foliosa	EMP	NL	FAC
Dalea foliosa	MW	NL	FAC
Echinacea laevigata	AGCP	NL	FACU
Echinacea laevigata	EMP	NL	FACU
Helianthus verticillatus	AGCP	NL	FAC
Hypericum calycinum	AW	NL	FAC
Hypericum calycinum	WMVC	NL	FAC
Lespedeza leptostachya	MW	NL	FACU
Lespedeza leptostachya	NCNE	NL	FACU
Ligustrum lucidum	AGCP	NL	FAC
Ligustrum lucidum	GP	NL	FACU
Ligustrum lucidum	HI	NL	FAC
Oxypolis canbyi	AGCP	NL	OBL
Peucedanum palustre	NCNE	NL	OBL
Physaria globosa	MW	NL	FACU
Physaria globosa	EMP	NL	FACU
Pinus palustris	AGCP	FACU	FAC
Platanthera praeclara	GP	NL	FAC
Platanthera praeclara	MW	NL	FAC
Platanthera praeclara	NCNE	NL	FACW
Populus balsamifera	WMVC	FAC	FACW
Quercus pagoda	AGCP	FACW	FAC
Silene spaldingii	AW	NL	FACU
Silene spaldingii	WMVC	NL	FACU
Spiranthes diluvialis	AW	NL	FACW
Spiranthes diluvialis	GP	NL	FACW
Spiranthes diluvialis	WMVC	NL	FACW
Trifolium stoloniferum	EMP	NL	FACU
Trifolium stoloniferum	MW	NL	FACU
Vinca major	AW	NL	FAC
Vinca major	WMVC	NL	FAC
Xylocarpus moluccensis	HI	NL	OBL

* NL = ''Not Listed'' and indicates proposed additions to the NWPL.

As part of the 2020 NWPL update, USACE is also proposing administrative changes to reformat the Hawai'i and Pacific Islands Region (HI) and the South Pacific Islands Subregion (SPI). NWPL subregions are areas in which small numbers of wetland plants have wetland indicator status ratings that differ from the ratings for the same plant species in the rest of the region. Boundaries of subregions are typically based on Major Land Resource Areas. Under the current format, the SPI includes certain plant species which have an indicator status rating for SPI but not for HI (*see e.g.,* indicator status ratings for *Abildgaardia ovata;* SPI= FACW, HI= NL). This current format of HI/SPI is inconsistent with the formatting of other NWPL regions and subregions and has caused some confusion when applying the NWPL within HI. USACE proposes two administrative changes to reduce this confusion. Neither of the proposed administrative changes to SPI or HI will affect the current boundaries of SPI, HI, or any other NWPL regions or subregions.

USACE proposes to reformat SPI and HI by merging the lists of plant species from the existing SPI and HI to form a single, comprehensive region, with SPI serving as a subregion of HI, instead of the current state of the region in which SPI serves as a stand-alone subregion separate from the larger HI region. As proposed, plant species which currently have an indicator status rating for SPI but not for HI (*e.g., Abildgaardia ovata*) will now have a single, comprehensive indicator status rating for the entire region (HI). For those species which currently have differing indicator status ratings between SPI and HI (*e.g., Abrus precatorius*), the current indicator status rating for SPI will be added to the reformatted SPI, which, as proposed, will serve as a subset of indicator status ratings within HI and will include only those plant species and associated indicator status ratings which differ from the HI indicator status rating. With the exception of *Xylocarpus moluccensis* and *Ligustrum lucidum,* which were submitted by the public, USACE is not proposing any changes to wetland indicator status ratings for SPI or HI. All current indicator status ratings for SPI and HI will be retained through this proposed reformatting. As proposed, the USACE believes this administrative change will provide greater clarity for the public, remove redundancies in the NWPL that currently exist between SPI and HI, allow for a consistent formatting of subregions between all NWPL regions, and more accurately and appropriately reflect species' distribution and wetland frequency within SPI and HI.

USACE is also proposing to rename SPI from its current name, ''South Pacific Islands Subregion'', to ''Pacific Islands Subregion.'' This subregion includes islands which are located within both the northern Pacific (*i.e.,* the Commonwealth of the Northern Mariana Islands and the Territory of Guam) and southern Pacific (*i.e.,* the Territory of American Samoa). Therefore, the proposed name change will more accurately characterize the geographic extent and spatial variability of this subregion. The proposed change also creates consistency between the naming conventions of the NWPL regions and subregions and the Regional Supplements to the Corps of Engineers Wetland Delineation Manual regions.

Instructions for Providing Comments Online

USACE encourages public input in the form of data, comments, literature references, or field experiences, to help clarify the status of the species reviewed for this update. The list of these same 27 reviewed species, and their draft 2020 wetland ratings by region, can be viewed at the NWPL homepage, *http://wetland-plants.usace.army.mil/* under ''2020 NWPL Update Information.'' A link to provide general or species-specific comments in response to this notice is also available at this location. Users are encouraged to submit literature citations, herbaria records, experiential references, monitoring data, and other relevant information. Specific knowledge of, or studies related to, individual species are particularly helpful. When providing input or information on the draft changes to the 2020 NWPL update, commenters should use their regional botanical and ecological expertise, field observations, reviews of the most recent indicator status information, appropriate botanical literature, floras, herbarium specimens with notation of habitat and associated species, habit data, relevant studies, and historic list information. Providing ratings without supporting documentation or information is not recommended. All submitted comments and information will be compiled and sent to the National Panel for their review and consideration.

USACE is also seeking comments on the NWPL update process. Detailed information on the update process, protocol, and technical issues can be found in the following documents, which are available on the ''NWPL Publications'' web page:

- Lichvar, Robert W. and Minkin, Paul. Concepts and Procedures for Updating the National Wetland Plant List. Sept 2008. ERDC/CRREL TN–08–3. Hanover, NH: U.S. Army Engineer Research and Development Center, Cold Regions Research and Engineering Laboratory.
- Lichvar, Robert W. and Gillrich, Jennifer J. Final Protocol for Assigning Wetland Indicator Status Ratings during National Wetland Plant List Update. Sept 2011. ERDC/CRREL TN–11–1. Hanover, NH: U.S. Army Engineer Research and Development Center, Cold Regions Research and Engineering Laboratory.
- Lichvar R.W., N.C. Melvin, M.L. Butterwick, and W.N. Kirchner. 2012. National Wetland Plant List Indicator Rating Definitions. ERDC/CRREL TN–12–1. Hanover, NH: U.S. Army Engineer Research and Development Center Cold Regions Research and Engineering Laboratory.

Future Actions

Future updates to the NWPL will occur biennially. A change in indicator status for a given species, or a proposed species addition may be requested at any time at *http://wetland-plants.usace.army.mil/* under ''Submit NWPL Change Request.'' Submissions throughout the two-year period will be compiled and reviewed prior to each NWPL update and any resulting proposed changes will be reflected in the subsequent notice of an updated list.

Dated: March 18, 2021.

Taylor N. Ferrell,

Senior Official Performing the Duties of Assistant Secretary of the Army (Civil Works).

[FR Doc. 2021–05989 Filed 3–23–21; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0042]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Title VI Undergraduate International Studies and Foreign Language (UISFL) Program Application

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before April 23, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Tanyelle Richardson, 202–453–6391.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Title VI Undergraduate International Studies and Foreign Language (UISFL) Program Application.

OMB Control Number: 1840–0796.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 100.

Total Estimated Number of Annual Burden Hours: 11,000.

Abstract: This application package is used by institutions of higher education, partnerships between nonprofit educational organizations and institutions of higher education, and public and private nonprofit organizations, to apply for grants under the Title VI UISFL program. Information submitted in this collection will be used during the peer review to evaluate and score the applications, and to make funding decisions. The Department requires this information collection in order to make discretionary grant awards under this program.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection request.

Dated: March 19, 2021.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–06057 Filed 3–23–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0046]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; ED–524 Budget Information Non-Construction Programs Form and Instructions

AGENCY: Institute for Education Sciences (IES), National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Approval by the OMB has been requested by Friday, March 19, 2021. Interested persons are invited to submit comments on or before April 23, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: NAEP 2021 School and Teacher Questionnaire Special Study.

OMB Control Number: 1850–0956.

Type of Review: A revised information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 50,294.

Total Estimated Number of Annual Burden Hours: 35,443.

Abstract: The NAEP 2021 School and Teacher Questionnaire Special Study is collecting data necessary to fully understand the impact of the COVID–19 pandemic on schools and educators. A previous emergency clearance (OMB#1850–0957) in February 2021 allowed work on the NAEP 2021 School Survey to begin. The NAEP 2021 School Survey is a monthly collection of data from 3,500 schools that gathers information about opening status

(ranging from fully in-person to fully remote), the hours of instruction for students, and how enrollment and attendance rates vary by a number of social stratifying factors including race/ethnicity, socio-economic status, English learner status, and disability status. The work proposed in this package, the NAEP 2021 School and Teacher Questionnaire Special Study, is a more in-depth data collection. Although it will collect data only once, it allows NCES a deeper and richer understanding of how schools and teachers are faring while operating during a pandemic. Because the instruments are very much the same as the instruments used during every administration of NAEP, the data collected will also allow us to better understand trends in schools across and through the global coronavirus pandemic. In addition, a summative report will be provided at the end of the collection, relating the results to those from the NAEP 2021 School Survey.

Dated: March 18, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–06018 Filed 3–23–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Chairs

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Chairs. The Federal Advisory Committee Act requires that public notice of this conference call be announced in the **Federal Register**.

DATES:

Tuesday, April 20, 2021; 12:00 p.m.–4:00 p.m. EDT

Wednesday, April 21, 2021; 12:00 p.m.–4:00 p.m. EDT

ADDRESSES: This meeting will be held virtually via Microsoft Teams. To attend, please contact Alyssa Harris by email, *Alyssa.Harris@em.doe.gov*, no later than 5:00 p.m. EDT on Tuesday, April 13, 2021.

To Submit Public Comment: Public comments will be accepted via email prior to and after the meeting. Comments received no later than 5:00 p.m. EDT on Tuesday, April 13, 2021 will be read aloud during the virtual meeting. Comments will also be accepted after the meeting by no later than 5:00 p.m. EDT on Tuesday, April 27, 2021. Please send comments to Alyssa Harris at *Alyssa.Harris@em.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Alyssa Harris, EM SSAB Federal Coordinator. U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Phone (202) 430–9624 or Email: *Alyssa.Harris@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda Topics:

Tuesday, April 20, 2021

- Opening Remarks
- Update from EM Senior Leadership
- EM SSAB Chairs' Round Robin
- Reading of Public Comment
- Update from Associate Principal Deputy Assistant Secretary for Regulatory & Policy Affairs
- EM Budget Update
- Communications Presentation by the Consortium for Risk Evaluation with Stakeholder Participation (CRESP)

Wednesday, April 21, 2021

- Charge Presentation and Discussion
- Reading of Public Comment
- Charge Presentation and Discussion
- Open Discussion/Board Business

Public Participation: The online virtual meeting is open to the public. Written statements may be filed with the Board either before or after the meeting by sending them to Alyssa Harris at the aforementioned email address. The Designated Federal Officer is empowered to conduct the conference call in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Alyssa Harris at the address or phone number listed above. Minutes will also be available at the following website: *https://energy.gov/em/listings/chairs-meetings.*

Signed in Washington, DC, on March 18, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–06046 Filed 3–23–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC21–8–000]

Commission Information Collection Activities (FERC–512); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on a renewal of currently approved information collection, FERC–512 (Preliminary Permit), which will be submitted to the Office of Management and Budget (OMB) for review.

DATES: Comments on the collection of information are due April 23, 2021.

ADDRESSES: Send written comments on FERC–512 to OMB through *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902–0073) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC21–8–000) by one of the following methods: Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
- *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Hand (including courier) delivery: Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the

''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–512, Preliminary Permit.

OMB Control No.: 1902–0073.

Type of Request: Three-year approval of the FERC–512 information collection requirements, with no changes to the current reporting requirements in Docket No. IC21–8–000.

Abstract: The Commission regulates nonfederal hydropower projects on navigable waters and federal lands pursuant to the Federal Power Act (FPA).[1] The FERC–512 is an application for a preliminary permit or to extend a preliminary permit term. Preliminary permits, issued for up to four years, preserve the right of permit holders to have first priority in applying for a license for a project being studied, but do not authorize construction of any facilities. Nor does a preliminary permit allow the use of eminent domain to acquire lands for the project. The preliminary permits are issued pursuant to sections 4(f), 5, and 7 of the FPA. Preliminary permits may be extended one time for up to four additional years, pursuant to section 5 of the FPA. The purpose of obtaining a preliminary permit is to maintain priority status for an application for a license while the applicant conducts site examinations and surveys to prepare maps, plans, specifications, and estimates. This period of time also provides the applicant with the opportunity to conduct engineering, economic, and environmental feasibility studies in addition to making the financial arrangements for funding the construction of the project. No other application for a preliminary permit or application for license submitted by another party can be accepted during the permit term. The application for a preliminary permit is used by Commission staff to assess the scope of the proposed project, the technology to be used, and jurisdictional aspects of the project. The staff assessment includes a review of the proposed hydro development for conflicts with other permits or existing projects and public notice of the application to solicit public and agency comments. The application for a one-time extension, up to four years, of a preliminary permit is used by Commission staff to determine if a permittee has met the 2018 Water Infrastructure Act's good faith and reasonable diligence standard. An application for a preliminary permit includes an initial statement and three numbered exhibits, per 18 CFR 4.81. The initial statement includes information on the applicant, the project, the requested term of the permit, affected political jurisdictions, and a verification of the facts.

Type of Respondents: Business or other for-profit and not for-profit institutions.

In response to the Notice of Information Collection Request for comments published in the **Federal Register** on January 11, 2021 (86 FR 1957), the Commission received no comments on the 60-day Paperwork Reduction Act notice.

Estimate of Annual Burden[2] *and Cost*[3]: The Commission estimates as shown below in the table:

FERC–512: (PRELIMINARY PERMIT)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours & cost per response	Total annual burden hours & total annual cost	Average annual cost per respondent
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Annual Reporting and Recordkeeping.	50	1	50	24 hrs.; $1,992	1,200 hrs.; $99,600	$1,992
Total FERC–512 ...	50	1	50	24 hrs.; $1,992	1,200 hrs.; $99,600	1,992

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 18, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–06087 Filed 3–23–21; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 791a–825r (2012).

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[3] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–512 are approximately the same as the Commission's average cost. The FERC 2020 average salary plus benefits for one FERC full-time equivalent (FTE) is $172,329/year (or $83.00/hour).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2020–0617; FRL–10018–36]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Collection of Information for TSCA Mercury Inventory Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Collection of Information for TSCA Mercury Inventory Reporting'' and identified by EPA ICR No. 2567.03 and OMB Control No. 2070–0207, represents the renewal of an existing ICR that is scheduled to expire on October 31, 2021. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before May 24, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0617, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Thomas Groeneveld (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–1188; email address: *groenveld.thomas@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Collection of Information for TSCA Mercury Inventory Reporting.

ICR number: EPA ICR No. 2567.03.

OMB control number: OMB Control No. 2070–0207.

ICR status: This ICR is currently scheduled to expire on October 31, 2021. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: As directed in the June 2016 Frank R. Lautenberg Chemical Safety for the 21st Century Act amendments to the Toxic Substances Control Act (TSCA), EPA is required to assist in the preparation and publication in the **Federal Register** of an ''inventory of mercury supply, use, and trade in the United States.'' 15 U.S.C. 2607(b)(10)(B) and (D). Based on the inventory of information collected through this ICR, the Agency is directed to ''identify any manufacturing processes or products that intentionally add mercury'' and ''recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use.'' 15 U.S.C. 2607(b)(10)(C).

The primary purpose of this ICR is to support the development of that inventory. In turn, the inventory will help the Agency identify uses of mercury and recommend means to achieve further reductions of such uses in commerce. In addition, the Agency seeks to obtain the information necessary to achieve its goal to further reduce the use of mercury in products and certain manufacturing processes in order to prevent future releases to the environment, as well as assist the United States in reporting implementation under the Minamata Convention. EPA seeks to enhance its current information on how much mercury is used, in which products and manufacturing processes, and whether certain products are manufactured domestically, imported, or exported.

Reporting is required from any person who manufactures (including imports) mercury or mercury-added products, as well as any person who otherwise intentionally uses mercury in a manufacturing process under TSCA section 8(b). 15 U.S.C. 2607(b)(10)(D)(i). The Agency promulgated reporting requirements at 40 CFR part 713. In order to avoid duplication, EPA coordinated the reporting with the Interstate Mercury Education and Reduction Clearinghouse (IMERC). 15 U.S.C. 2607(b)(10)(D)(ii).

Regulated entities may claim some of the information given to EPA as CBI. Reporting requirements will contain information for respondents on how to make a claim to EPA that all or part of their submitted information is CBI. EPA handles claims of confidentiality pursuant to established CBI procedures, as found at section 14 of TSCA, 40 CFR part 2, and the Agency's TSCA CBI Manual. CBI is also protected under the Freedom of Information Act (5 U.S.C 525).

Burden statement: annual public reporting and recordkeeping burden for this collection of information is estimated to average 23 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are persons who manufacture (including

import) mercury, mercury-added products, and persons who otherwise intentionally use mercury in a manufacturing process.

Estimated average number of potential respondents per year: 756.

Frequency of response: Every three years.

Estimated yearly average number of responses for each respondent: 0.33.

Estimated total annual burden hours: 52,000 hours.

Estimated total annual costs: EPA estimates the annual average industry burden and cost over three years at approximately 17,000 hours and $1.4 million dollars, respectively, with a total industry burden of approximately 52,000 hours and $4.2 million over the three-year period. Annual average agency burden and costs annualized over 3 years are 1,600 hours and $0.15 million, with a total agency burden of approximately 4,800 hours and $0.4 million over 3 years. Total annual burden and cost for both industry and agency annualized over 3 years is 19,000 hours and $1.8 million dollars. Total overall burden and costs are 57,000 hours and $4.6 million.

III. Are there changes in the estimates from the last approval?

In June 2018, EPA finalized a rule to require reporting from persons who manufacture (including import) mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process. That rule was challenged in the Second Circuit Court of Appeals by the Natural Resources Defense Council and several state attorneys general in July 2018. The petitioners argued that three exemptions to the reporting requirements violated the statutory mandate within TSCA section 8(b)(10). Oral arguments were held on November 20, 2019 and the court issued its decision in June 5, 2020. The Agency prevailed on two issues, but the Second Circuit vacated an exemption (40 CFR 713.7(b)(2)) for persons who import pre-assembled products that contain a mercury-added component. As a result, such persons are now required to report pursuant to 40 CFR 713.7(b). Additionally, an interim final rule will be used to effectuate the decision of the court, including necessary regulatory amendments.

Based on the numbers of reporters of mercury data to the IMERC Database, as well as EPA's TRI program and CDR rule, there will be a change in manufacturers (including importers) or processors that could respond to this information collection. The annual public burden for this collection of information is estimated about 23 hours per respondent. This request represents a decrease of 9 hours per respondent from that currently in the OMB inventory, or a total decrease of 20,522 hours (from 72,567 to 52,045 hours). This increase is due to, a decrease in rule familiarization burden, a decrease in form completion burden due to mercury export prohibitions, and changes in the number of estimated respondents.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. EPA intends to update this Supporting Statement during the comment period to reflect the 18-question format, and has included the questions in an attachment to this Supporting Statement. In doing so, the Agency does not expect the change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 17, 2021.

Michal Freedhoff,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–06009 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–10021–67]

Access to Confidential Business Information by Eastern Research Group and Its Identified Subcontractors and PG Environmental

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor and subcontractor, Eastern Research Group (ERG), Lexington, MA; and PG Environmental, Golden, CO, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data will occur no sooner than March 31, 2021.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Program Management and Operations Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address: *sherlock.scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2003–0004 is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William

Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

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

II. What action is the Agency taking?

Under EPA contract number 68HERC21D0007, contractor and subcontractors ERG, 110 Hartwell Ave, Suite 1, Lexington, MA and PG Environmental, 1113 Washington Ave, Golden, CO, will assist the Office of Pollution Prevention and Toxics (OPPT) in enforcement program implementation; enforcement case support; conducting inspections; provide laboratory support; and perform analysis.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68HERC21D0007, ERG and PG Environmental will require access to CBI submitted to EPA under all section(s) of TSCA to perform successfully the duties specified under the contract. ERG and PG Environmental personnel will be given access to information submitted to EPA under all section(s) of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ERG and PG Environmental access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ERG's site located at 14555 Avion Parkway, Suite 200, Chantilly, VA, in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until March 09, 2026. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

ERG and PG Environmental personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 19, 2021.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2021–06065 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0080; FRL–10021–46]

Pesticide Product Registration; Receipt of Applications for New Uses (March 2021)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before April 23, 2021.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the File Symbol of the EPA registration number of interests as shown in the body of this document, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI, and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing

notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

Notice of Receipt—New Uses

1. *EPA File Symbol:* 56228–AU. *Docket ID number:* EPA–HQ–OPP–2021–0163. *Applicant:* U.S. Department of Agriculture. *Active ingredient:* Gonadotropin releasing hormone. *Product type:* Contraceptive. *Proposed use:* Black-tailed prairie dogs. *Contact:* RD.

2. *EPA Registration Number(s) or File Symbol:* 9F8817; 100–903, 100–1270. *Docket ID number:* EPA–HQ–OPP–2021–0066. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Emamectin benzoate. *Product type:* Insecticide. *Proposed use:* Soybeans. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 11, 2021.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2021–06069 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0465; FRL 10021–17–OW]

Proposed Information Collection Request for Water Quality Standards Regulation (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Water Quality Standards Regulation (Renewal)'' (EPA ICR No. 0988.14, OMB Control No. 2040–0049) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This ICR renews the Water Quality Standards Regulation ICR, which is currently approved through December 31, 2021. 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.

DATES: Comments must be submitted on or before May 24, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OW–2011–0465, online using *www.regulations.gov* (our preferred method), by email to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Menchu Martinez, Office of Water, Office of Science and Technology, Standards and Health Protection Division, (4305T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–1218; email address: *martinez.menchu-c@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that EPA would be collecting are available in the public docket for this ICR (Docket ID No. EPA–HQ–OW–2011–0465). The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it 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. EPA will consider the comments received and amend the proposed ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Water quality standards (WQS) under the Clean Water Act (hereafter referred to as ''the Act'') are provisions of state,[1] tribal,[2] or federal law which consist of designated uses for waters of the United States, water quality criteria to protect those uses, and antidegradation requirements. WQS are established to protect public health or welfare, protect and enhance the quality of water, and serve the purposes of the Act. Such standards serve the dual purposes of establishing the water quality goals for water bodies and serving as the regulatory basis for the establishment of water quality-based treatment controls and strategies beyond technology-based levels of treatment required by sections 301(b) and 306 of the Act. The WQS regulation, consisting of 40 CFR part 131, establishes the framework for states and authorized tribes to adopt standards, and for EPA to review and approve or disapprove them. This ICR is for information collections needed to implement the WQS regulation, required to obtain or retain benefits (*e.g.,* relaxed regulatory requirements) under the WQS regulation, and requested on a voluntary basis to gather technical program information.

This ICR renews the WQS Regulation ICR, OMB control no. 2040–0049, expiration date 12/31/2021. This ICR renewal describes the estimated burden for states and authorized tribes associated with the information collections related to implementation of the requirements of 40 CFR part 131 (Water Quality Standards). This ICR also covers periodic requests for voluntary WQS information from states and tribes to ensure efficient and effective administration of the WQS program and further cooperative federalism.

Form Numbers: None.

Respondents/affected entities: Potential respondents to this ICR

[1] ''States'' in EPA's WQS Regulation and in this document includes the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[2] ''Tribes'' in this document refers to federally recognized tribes and ''authorized tribes'' refers to those federally recognized Indian tribes with authority to administer a CWA WQS program.

include: The 50 states, the District of Columbia, five territories, authorized tribes with EPA-approved water quality standards (45 tribes as of February 2021), and a total of 18 additional tribal respondents over the three-year duration of the ICR. The total number of potential respondents is thus 119.

Respondent's obligation to respond: Some collections in this ICR are mandatory, some are required to obtain or retain benefits pursuant to the WQS Regulation, and some are voluntary.

Estimated number of respondents: 119.

Frequency of response: Variable (once every three years, on occasion or as necessary, or only once) depending on type of information collected.

Total estimated burden: 466,242 hours per year. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $21,409,833 in labor costs and $263,520 in operations and maintenance costs per year. There are no annualized capital costs.

Change in estimates: A decrease of 41,645 hours in estimated respondent burden compared with the currently approved ICR. The decrease reflects removal of one completed collection and transfer and consolidation of two collections with the ICR of another program, and adjustments to reflect changes in the estimated number of respondents.

See Supporting Statement in the docket for more information.

Deborah Nagle,

Director, Office of Science and Technology, Office of Water.

[FR Doc. 2021–06097 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–10021–78–OLEM]

Brownfields Stakeholder Discussion and Listening Session With Nonprofit Organizations and Community Foundations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) will host an open discussion and listening session with nonprofit organizations across the country to hear about nonprofit leadership in brownfields assessment, cleanup, and redevelopment projects. This is a virtual event and will be held on Friday, April 23, 2021 through Zoom from 1 p.m.–3 p.m. Eastern Standard Time. EPA will make registration information available to the public on the agency's website at *http://www.epa.gov/brownfields* on Friday, April 2, 2021. Due to the limit of 250 participants, attendance will be on a first-come, first served basis. Registration is required. After registering and prior to April 2, confirmed participants will receive an email from Eventbrite with a link to use to join the event.

The purpose of this meeting is to hear from representatives of nonprofits, using the following questions to guide the discussion: How does your nonprofit organization view its role in brownfields cleanup and redevelopment? What benefits and barriers exist to nonprofits leading brownfield cleanup and redevelopment projects? How can EPA best engage with nonprofit organizations that are most interested in leading brownfields cleanup and redevelopment?

In addition to the open discussion and listening session, stakeholders may respond in writing to the guiding questions mentioned above during a three-week comment period that will commence upon publication of this notice. Comments will be accepted through April 23, 2021 and should be submitted through email to EPA's Office of Brownfields and Land Revitalization at *BUILDAct@epa.gov.*

DATES: This event will be held on April 23, 2021 through Zoom from 1 p.m.–3 p.m. Eastern Standard Time. Public comments submitted before the event will be accepted through April 23, 2021 and should be submitted through email to EPA's Office of Brownfields and Land Revitalization at *BUILDAct@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel Moher, U.S. EPA; email: *moher.daniel@epa.gov;* telephone: (202) 566–2939. Additional information about EPA's Brownfields and Land Revitalization Program is available at *http://www.epa.gov/brownfields.*

SUPPLEMENTARY INFORMATION: The Brownfields Utilization, Investment and Local Development Act of 2018 (BUILD Act) amended the Brownfields provisions of the Comprehensive, Environmental Response, Compensation and Liability Act (CERCLA) to expand its eligibility for nonprofit organizations. Nonprofits described as 501(c)(3), limited liability corporations (LLCs) and community development agencies that are nonprofit, can apply for multipurpose, assessment, cleanup, and revolving loan fund grants.

A. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance

For more information about accessibility or services for individuals requiring assistance, please contact Daniel Moher, U.S. EPA; email: *moher.daniel@epa.gov;* telephone: (202) 566–2939. To request special accommodations for a disability, English language translation or other assistance, please submit your request at least fourteen (14) working days prior to the event to give EPA sufficient time to process your request. All requests should be sent to the email or phone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: March 18, 2021.

David Lloyd,

Director, Office of Brownfields and Land Revitalization.

[FR Doc. 2021–06014 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0083; FRL–10021–45]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients (March 2021)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before April 23, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov*; or Anita Pease, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305–7090, email address: *ADFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each registration summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

• Crop production (NAICS code 111).
• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI, and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

Notice of Receipt—New Active Ingredients

1. *File symbol:* 524–AAG. *Docket ID number:* EPA–HQ–OPP–2020–0547. *Applicant:* Bayer CropScience LP, 800 N. Lindbergh Blvd., St. Louis, MO 63167. *Product name:* MON 95379. *Active ingredients:* Plant-incorporated Protectant Insecticides—*Bacillus thuringiensis* Cry1B.868 protein and the genetic material (Vector PV–ZMIR522223) necessary for its production in MON 95379 corn at ≤0.036% and *Bacillus thuringiensis* Cry1Da_7 protein and the genetic material (Vector PV–ZMIR522223) necessary for its production in MON 95379 corn at ≤0.01%. *Proposed use:* Plant-incorporated protectants to control lepidopteran pests in corn planted on a maximum total acreage of 100 acres per growing season for breeding operations across the states of Nebraska, Hawaii, and Iowa. *Contact:* BPPD.

2. *File symbol:* 86431–GA. *Docket ID number:* EPA–HQ–OPP–2020–0688. *Applicant:* Advanced Biological Marketing, 375 Bonnewitz Ave., Van Wert, OH 45891. *Product name:* ABM K5 oilLQ. *Active ingredient:* Fungicide and Nematicide—*Trichoderma atroviride* strain K5 NRRL B–50520 at 0.68%. *Proposed use:* For control or suppression of plant diseases or nematodes of various crops (*e.g.,* oilseeds and legume vegetables) in agricultural or commercial settings via seed treatment, in-furrow application, chemigation, transplant water, or root dip. *Contact:* BPPD.

3. *File symbol:* 86431–GL. *Docket ID number:* EPA–HQ–OPP–2020–0688. *Applicant:* Advanced Biological Marketing, 375 Bonnewitz Ave., Van Wert, OH 45891. *Product name:* ABM K5 Technical. *Active ingredient:* Fungicide and Nematicide—*Trichoderma atroviride* strain K5 NRRL B–50520 at 100%. *Proposed use:* For manufacturing use. *Contact:* BPPD.

4. *File symbol:* 86431–GU. *Docket ID number:* EPA–HQ–OPP–2020–0688. *Applicant:* Advanced Biological Marketing, 375 Bonnewitz Ave., Van Wert, OH 45891. *Product name:* ABM K5 EP#11. *Active ingredient:* Fungicide and Nematicide—*Trichoderma atroviride* strain K5 NRRL B–50520 at 0.68%. *Proposed use:* For control or suppression of plant diseases or nematodes of various crops (*e.g.,* oilseeds and legume vegetables) in agricultural or commercial settings via seed treatment, in-furrow application, chemigation, transplant water, or root dip. *Contact:* BPPD.

5. *File symbol:* 91810–G. *Docket ID number:* EPA–HQ–OPP–2021–0140. *Applicant:* Lesaffre Yeast Corporation, 7475 West Main St., Milwaukee, WI 53214. *Product name:* Julietta. *Active ingredient:* Bactericide and fungicide—*Saccharomyces cerevisiae* strain LAS02 at 96.1%. *Proposed use:* For preventative use against pathogens of various plants (*e.g.,* fruiting vegetables and pome fruit) in agricultural settings via foliar spray. *Contact:* BPPD.

6. *File symbol:* 91868–E. *Docket ID number:* EPA–HQ–OPP–2021–0165. *Applicant:* Biotalys NV, Technologiepark 94, 9052 Ghent, Belgium (c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192). *Product name:* EVOCA. *Active ingredient:* Fungicide—ASFBIOF01–02 at 15.0%. *Proposed use:* Fungicide. *Contact:* BPPD.

7. *File symbol:* 91868–R. *Docket ID number:* EPA–HQ–OPP–2021–0165. *Applicant:* Biotalys NV, Technologiepark 94, 9052 Ghent, Belgium (c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192). *Product name:* ASFBIOF01–02 AGROBODY. *Active ingredient:* Fungicide—ASFBIOF01–02 at 2%. *Proposed use:* Technical grade active ingredient. *Contact:* BPPD.

8. *File symbol:* 94387–R. *Docket ID number:* EPA–HQ–OPP–2021–0071. *Applicant:* Lucebni Zavody Draslovka A.S. Kolin c/o Mountain View Advisory, LLC, P.O. Box 1648, Estes Park, CO 80517. *Product name:* EDN. *Active ingredient:* Preventive wood preservative—Ethanedintrile at 98.78%.

Proposed use: End use product for use as preventive wood preservative treatment of freshly cut timber (lumber) and logs under sealed air-tight conditions under tarpaulins or containers for the control of wood colonizing and decaying fungi, fungal rot, sapstain wood fungi, and certain wood-destroying insects and nematodes. *Contact:* AD.

9. *File symbol:* 95699–R. *Docket ID number:* EPA–HQ–OPP–2020–0480. *Applicant:* NewLeaf Symbiotics, 1005 North Warson Rd., Ste. 102, St. Louis, MO 63132. *Product name:* TS601. *Active ingredient:* Fungicide—*Methylorubrum populi* strain NLS0089 at 2.0%. *Proposed use:* For suppression of diseases of plants (*e.g.,* cereal grains, hemp, and hops) in agricultural or commercial settings via foliar spray, soil treatment, or seed treatment. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 11, 2021.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2021–06078 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0104; FRL–10020–00]

Safer Choice Partner of the Year Awards for 2021; Call for Submissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Safer Choice program in the Environmental Protection Agency (EPA) is accepting submissions for its 2021 Safer Choice Partner of the Year Awards. EPA developed the Partner of the Year Awards to recognize the leadership contributions of Safer Choice partners and stakeholders who, over the past year, have shown achievement in the design, manufacture, selection, and use of products with safer chemicals, that further outstanding or innovative source reduction. EPA especially encourages submission of award applications that show how the applicant's work in the design, manufacture, selection and use of those products promotes environmental justice, bolsters resilience to the impacts of climate change, results in cleaner air or water, or improves drinking water quality. All Safer Choice stakeholders and program participants in good standing are eligible for recognition. Interested parties who would like to be considered for this award should submit to EPA information about their accomplishments and contributions during 2020. There is no form associated with this year's application. EPA will recognize award winners at a Safer Choice Partner of the Year Awards ceremony in the fall of 2021.

DATES: Submissions are due on or before May 31, 2021.

ADDRESSES: Please submit materials by email to *saferchoice_support@abtassoc.com* and copy *rutsch.linda@epa.gov.* The docket for this action, identified by docket information (ID) number EPA–HQ–OPPT–2019–0104 (2021 Safer Choice Partner of the Year Awards Program), is available at *http://www.regulations.gov.* Candidates interested in learning more about the Partner of the Year Awards should refer to the Safer Choice website at *https://www.epa.gov/saferchoice/safer-choice-partner-year-awards.*

Because of the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Public Reading Room are closed to visitors with limited exceptions. EPA provides customer service for the Docket Center. The telephone number for the Public Reading Room and Docket Center is (202) 566–1744. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Linda Rutsch, Data Gathering and Analysis Division, Office of Pollution Prevention and Toxics (7406M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 343–9924; email address: *rutsch.linda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be affected by this action if you are a Safer Choice program partner or stakeholder. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Affected entities may include:

- Other Basic Inorganic Chemical Manufacturing (NAICS code 325180).
- All Other Basic Organic Chemical Manufacturing (Primary) (NAICS code 325199).
- Pesticide and Other Agricultural Chemical Manufacturing (NAICS code 325320).
- Paint and Coating Manufacturing (NAICS code 325510).
- Adhesive Manufacturing (NAICS code 325520).
- Soap and Other Detergent Manufacturing (NAICS code 325611).
- Polish and Other Sanitation Good Manufacturing (NAICS code 325612).
- Surface Active Agent Manufacturing (Primary) (NAICS code 325613).
- Toilet Preparation Manufacturing (NAICS code 325620).
- Photographic Film, Paper, Plate, and Chemical Manufacturing (NAICS code 325992).
- All Other Miscellaneous Chemical Product and Preparation Manufacturing (NAICS code 325998).
- Service Establishment Equipment and Supplies Merchant Wholesalers (Primary) (NAICS code 423850).
- Other Chemical and Allied Products Merchant Wholesalers (Primary) (NAICS code 424690).
- Supermarkets and Other Grocery (except Convenience) Stores (Primary) (NAICS code 445110).
- All Other Specialty Food Stores (NAICS code 445299).
- Pharmacies and Drug Stores (NAICS code 446110).
- Office Supplies and Stationery Stores (NAICS code 453210).
- All Other Miscellaneous Store Retailers (except Tobacco Stores) (Primary) (NAICS code 453998).
- Electronic Shopping and Mail-Order Houses (NAICS code 454110).
- Research and Development in Biotechnology (except Nanobiotechnology) (Primary) (NAICS code 541714).
- Facilities Support Services (NAICS code 561210). Janitorial Services (NAICS code 561720).
- Carpet and Upholstery Cleaning Services (NAICS code 561740).
- Elementary and Secondary Schools (NAICS code 611110).
- Colleges, Universities, and Professional Schools (NAICS code 611310).
- Promoters of Performing Arts, Sports, and Similar Events with Facilities (NAICS code 711310).
- Drycleaning and Laundry Services (NAICS code 8123).
- Civic and Social Organizations (Primary) (NAICS code 813410).
- Business Associations (Primary) (NAICS code 813910).
- Other General Government Support (NAICS code 921190).
- Administration of Air and Water Resource and Solid Waste Management Programs (Primary) (NAICS code 924110).

II. Background

As part of its environmental mission, the Safer Choice program partners with businesses to help consumers and commercial buyers identify products with safer chemical ingredients, without sacrificing quality or performance. Toward this end, the Safer Choice program certifies products containing ingredients that have met the program's specific and rigorous human health and environmental toxicological criteria. The Safer Choice program allows companies to use its label on certified products that contain safer ingredients and perform, as determined by expert evaluation. The Safer Choice program certification represents a high level of achievement in formulating products that are safer for people and the environment. The purpose of the Partner of the Year Awards is to recognize the leadership contributions of Safer Choice partners and stakeholders who, over the past year, have shown achievement in the design, manufacture, selection, and use of products with safer chemicals, that further outstanding or innovative source reduction. EPA especially encourages submission of award applications that show how the applicant's work in the design, manufacture, selection and use of those products promotes environmental justice, bolsters resilience to the impacts of climate change, results in cleaner air or water, or improves drinking water quality.

III. How can I participate?

To be considered for a Partner of the Year Award, candidates should notify the Safer Choice program of their interest. They should submit supporting information on their accomplishments and contributions focusing on calendar year 2020. There is no form associated with this year's application. Candidates interested in learning more about the Partner of the Year Awards should refer to the Safer Choice website: *https://www.epa.gov/saferchoice/safer-choice-partner-year-awards.*

Authority: 42 U.S.C. 13103(b)(13) and 15 U.S.C. 2609.

Dated: March 18, 2021.

Michal Freedhoff,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–06058 Filed 3–23–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 21–79; MB Docket No. 21–20, FRS 17583]

Auburn Network, Inc., License Revocation Proceeding for Radio Stations in the Auburn, AL Market

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document commences a hearing to determine whether, in light of recent felony convictions, the licensee of stations in the Auburn, AL market is qualified to hold FCC authorizations, and consequently, whether licensee's current license authorizations should be revoked, whether the applications for renewal of various licenses should be granted, and whether the application for an FM translator construction permit should be granted.

DATES: Persons desiring to participate as parties in the hearing shall file a petition for leave to intervene not later than April 23, 2021.

ADDRESSES: File documents with the Office of the Secretary, Federal Communications Commission, 45 L St. NE, Washington, DC 20554, with a copy mailed to each party to the proceeding. Each document that is filed in this proceeding must display on the front page the docket number of this hearing, ''MB Docket No. 21–20.''

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Media Bureau, (202) 418–2721.

SUPPLEMENTARY INFORMATION: This is a summary of the Hearing Designation Order (Order), MB Docket No. 21–20, DA 21–79, adopted February 10, 2021, and released February 11, 2021. The full text of the Order is available online by using the search function for MB Docket No. 21–20 on the Commission's ECFS web page at *www.fcc.gov/ecfs.*

Summary of the Hearing Designation Order

1. The Order commences a hearing proceeding before the Commission to determine whether multiple felony convictions render licensee, Michael G. Hubbard (Hubbard), unqualified to hold FCC authorizations, and consequently, whether license authorizations should be revoked under sections 312(a)(2) and 312(c) of the Communications Act of 1934 (Act), 47 U.S.C. 312(a)(2) and 312(c) for stations WANI(AM), Opelika, AL, WGZZ(FM), Waverly, AL, W242AX, Auburn, AL, W254AY, Auburn, AL, W294AR, Auburn, AL (Stations). The hearing proceeding will also determine whether the application filed by ANI for an FM translator construction permit (Application) should be granted. This revocation proceeding and designation of the Application for hearing stems from Hubbard's multiple felony convictions under the Alabama Code of Ethics for Public Officials, Employees, Etc. (Alabama's Ethics Act), which raise a substantial and material question of fact as to Hubbard's character qualifications. ANI also seeks assignment of the Stations' licenses, and requests an exception of the Commission's *Jefferson Radio* policy prohibiting assignment or transfer of a license when character qualifications are pending against the licensee.

2. A broadcast licensee's authorization to use radio spectrum in the public interest carries with it the obligation that the station serves its community, providing programming responsive to local needs and interests. Broadcast licensees are also required to operate in compliance with the Act and the Commission's rules (Rules). Pursuant to section 309(e) of the Act, 47 U.S.C. 309(e), the Commission is required to designate an application for hearing if a substantial and material question of fact is presented regarding whether grant of the application would serve the public interest, convenience, and necessity. In determining whether an applicant is qualified to be a licensee, the Commission considers the character of the applicant. Section 312(a)(2) of the Act, 47 U.S.C. (312)(a)(2) provides that the Commission may revoke any license if conditions present would warrant refusal to grant a license or permit. Because the Commission considers character qualifications in its review of applications, a character defect that would warrant the Commission's refusal to grant a license in the original application would likewise support a Commission determination to revoke a license or permit.

3. Non-FCC misconduct may raise substantial and material questions of fact concerning the licensee's character. The Commission considers evidence of felony convictions because felonies are serious crimes and conviction indicates an applicant's propensity to obey laws and conform to provisions of the Act, Rules, and Commission policies. Hubbard has been convicted of six felonies, raising a material and substantial question of fact as to whether he, and by extension, ANI, possess the character qualifications to operate the Stations in the public interest, or to hold any other Commission authorization. Therefore, a hearing is required to ascertain whether

ANI and Hubbard possess requisite character qualifications of a Commission licensee, whether ANI's Commission authorizations should be revoked, and whether the Application should be granted.

4. To prevent licensees from evading consequences of wrongdoing by selling station licenses, *Jefferson Radio* prohibits the assignment of a license when character qualification issues lie pending against the assignor. There is no compelling public interest that would warrant the Commission's exemption of ANI from *Jefferson Radio.* ANI likewise has not demonstrated a compelling public interest consideration that would warrant grant of an equitable exception to *Jefferson Radio.* Hubbard's six felony convictions present a substantial and material question as to whether Hubbard and ANI have the requisite character qualifications to hold a broadcast license, therefore, the *Jefferson Radio* policy will apply to the pending assignment application.

5. Section 309(e), 47 U.S.C. 309(e), requires a ''full hearing in which the applicant and all other parties in interest shall be permitted to participate.'' The Commission and courts have held that the hearing need not be a trial-type evidentiary hearing meeting the standards of sections 554 and 556 of the Administrative Procedure Act, 5 U.S.C. 554, 556. The Commission has repeatedly observed that trial-type hearings impose significant burdens and delays, both on applicants and the agency.

6. Based on the information before us, we believe this matter can be adequately resolved on a written record, or a ''paper'' hearing. The Commission recently supplemented its formal hearing process to expand, in appropriate cases, procedures for hearings based on written submissions and documentary evidence. The presiding officer will issue an initial decision based on the record and pursuant to sections 312(a) and 312(d) of the Act, 47 U.S.C. 312(a), 312(d), and sections 1.267 and 1.274(c) of the Rules, 47 CFR 1.267 and 1.274(c).

7. The initial case order shall inform the parties to file notices of appearance pursuant to section 1.91(c) of the Rules, 47 CFR 1.91(c), and shall place parties on notice that they must be cognizant of Part I of the Rules, 47 CFR part 1, supbarts A and B. The initial case order will also set the date for a status conference and will establish a deadline for each party's submission indicating: (a) Whether discovery is expected and a proposed discovery schedule; (b) preliminary motions; (c) proposed case schedule; and whether a protective order is requested. Under section 1.246 of the Rules, 47 CFR 1.246, any party may serve written requests for admission of the genuineness of relevant documents or truth of relevant matters of fact. During the initial status conference the presiding officer will set deadlines for: Motions, discovery, if applicable, the parties' affirmative case, responsive case, reply case, and protective order, if requested, pursuant to 47 CFR 1.294, 1.248(b), and 1.371–1.377. In accordance with section 1.248 of the Rules, 47 CFR 1.248, and unless the parties agree otherwise, an official transcript of all case conferences will be made. The Commission also amended section 1.351 of the Rules, 47 CFR 1.351, to adopt the evidentiary standard set forth in the formal APA hearing requirements which states that oral or documentary evidence may be adduced, but the presiding officer shall exclude irrelevant, immaterial, or unduly repetitious evidence. Persons or entities seeking status as a party in interest in this proceeding must file a petition to intervene in accordance with 47 CFR 1.223(a). Anyone else seeking to participate in the hearing as a party may file a petition for leave to intervene in accordance with 47 CFR 1.223(b).

8. *Accordingly, it is ordered,* that pursuant to sections 309(e), 312(a), 312(c), and 319 of the Act, of the Communications Act of 1934, as amended, the captioned authorizations and application *are designated for a hearing* in a consolidated proceeding before the FCC Administrative Law Judge, at a time and place to be specified in a subsequent order, upon the following issues: (a) To determine the effects, if any, of Michael G. Hubbard's felony convictions on his qualifications and thus the qualifications of Auburn Network, Inc. to be a Commission licensee. (b) To determine whether Michael G. Hubbard and thus Auburn Network, Inc. is qualified to be a Commission licensee; (c) To determine whether Auburn Network, Inc.'s Commission authorizations should be revoked; and (d) To determine whether the captioned application for original construction permit for a new FM translator station at Auburn, Alabama should be granted, denied, or dismissed.

9. *It is further ordered* that pursuant to sections 1.91(c) and 1.221(c) of the Commission's Rules, in order to avail itself of the opportunity to be heard and the right to present evidence at a hearing in these proceedings, Auburn Network, Inc. and/or Michael G. Hubbard, in person or by an attorney, *shall file* within 20 days of the release of this Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing, a written appearance stating its intention to appear at the hearing and present evidence on the issues specified above.

10. *It is further ordered,* pursuant to section 1.221(c) of the Commission's Rules, that if Auburn Network, Inc. or Michael G. Hubbard fails to file a written appearance within the time specified above, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the Administrative Law Judge shall expeditiously dismiss the captioned applications with prejudice for failure to prosecute.

11. *It is further ordered,* pursuant to sections 1.92(c) of the Commission's Rules, that if Auburn Network, Inc. and/or Michael G. Hubbard, fails to file a written appearance within the time specified above, or has not filed prior to the expiration of that time a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days, the right to a hearing shall be deemed waived. Where a hearing is waived, the Administrative Law Judge shall issue an order terminating the hearing proceeding and certifying the case to the Commission.

12. *It is further ordered* that the Chief, Enforcement Bureau, *is made a party* to this proceeding without the need to file a written appearance.

13. *It is further ordered* that, in accordance with section 312(d) of the Communications Act of 1934, as amended, and section 1.91(d) of the Commission's Rules, the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issues at paragraph 31 (a)–(c) *shall be* upon the Commission's Enforcement Bureau.

14. *It is further ordered* that, in accordance with section 309(e) of the Communications Act of 1934, as amended, and section 1.254 of the Commission's Rules, the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issue at paragraph 31(d) of the Order *shall be* upon Auburn Network, Inc. and Michael G. Hubbard,.

15. *It is further ordered* that a copy of each document filed in this proceeding subsequent to the date of adoption of this Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing *shall be served* on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations &

Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service copy *shall be addressed* to the named counsel of record, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

16. *It is further ordered* that the parties to the captioned applications shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 73.3594 of the Commission's Rules, *give notice* of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the satisfaction of such requirements as mandated by section 73.3594 of the Commission's Rules.

17. *It is further ordered* that copies of this Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing shall be sent via Certified Mail, Return Receipt Requested, and by regular first-class mail to Michael G. Hubbard, Auburn Network, Inc., P.O. Box 950, Auburn, AL 36831, and M. Scott Johnson, 5028 Wisconsin Avenue NW, Suite 301, Washington, DC 20016.

18. *It is further ordered* that the Secretary of the Commission shall cause to have this Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing or a summary thereof published in the **Federal Register**.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2021–05983 Filed 3–23–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201355–001.

Agreement Name: NPDL/PFLG Slot Charter Agreement.

Parties: Neptune Pacific Direct Line Pte. Ltd. and Pacific Forum Line (Group) Limited.

Filing Party: David Monroe; GKG Law.

Synopsis: The amendment updates the commencement date of the slot charter arrangement.

Proposed Effective Date: 3/17/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/39509.

Agreement No.: 201356–001.

Agreement Name: PFLG/NPDL Slot Charter Agreement.

Parties: Neptune Pacific Direct Line Pte. Ltd. and Pacific Forum Line (Group) Limited.

Filing Party: David Monroe; GKG Law.

Synopsis: The amendment updates the commencement date of the slot charter arrangement.

Proposed Effective Date: 3/17/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/39510.

Agreement No.: 201358–001.

Agreement Name: NPDL/ANLS Slot Charter Agreement.

Parties: Neptune Pacific Direct Line Pte. Ltd. and ANL Singapore Pte Ltd.

Filing Party: David Monroe; GKG Law.

Synopsis: The amendment updates the commencement date of the slot charter arrangement.

Proposed Effective Date: 3/17/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/40502.

Dated: March 19, 2021.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–06098 Filed 3–23–21; 8:45 am]

Billing Code 3760–02

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–IP–21–001, Promoting the Importance of Infant and Childhood Vaccination Among Pregnant Women by Prenatal Care Providers; and RFA–IP–21–002, US Enhanced Surveillance Network to Assess Burden, Natural History, and Effectiveness of Vaccines To Prevent Enteric and Respiratory Viruses in Children; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–IP–21–001, Promoting the Importance of Infant and Childhood Vaccination Among Pregnant Women by Prenatal Care Providers; and RFA–IP–21–002, US Enhanced Surveillance Network to Assess Burden, Natural History, and Effectiveness of Vaccines to Prevent Enteric and Respiratory Viruses in Children; April 13–14, 2021, 10 a.m.–5 p.m., EDT, Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Boulevard, Atlanta, Georgia 30329–4027. The meeting was published in the **Federal Register** on January 11, 2021, Volume 86, Number 6, page 1976.

The meeting is being amended to change the title and meeting date of the special emphasis panel from RFA–IP–21–001, Promoting the Importance of Infant and Childhood Vaccination Among Pregnant Women by Prenatal Care Providers; and RFA–IP–21–002, US Enhanced Surveillance Network to Assess Burden, Natural History, and Effectiveness of Vaccines to Prevent Enteric and Respiratory Viruses in Children; April 13–14, 2021, 10 a.m.–5 p.m., EDT to RFA–IP–21–001, Promoting the Importance of Infant and Childhood Vaccination Among Pregnant Women by Prenatal Care Providers; and RFA–IP–21–003, Collaborative Research on Influenza, Coronavirus Disease 2019 (COVID–19), and Other Respiratory Pathogens in South Africa; May 13, 2021, 10 a.m.–5 p.m., EDT. The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329–4027, (404) 718–8833, *ganderson@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–06006 Filed 3–23–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—DP21–003, Reducing Inequities in Cancer Outcomes Through Community-Based Interventions on Social Determinants of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—DP21–003, Reducing Inequities in Cancer Outcomes through Community-Based Interventions on Social Determinants of Health; April 6–8, 2021, 10 a.m.–6 p.m., EST, in the original FRN.

The teleconference meeting was published in the **Federal Register** on January 14, 2021, Volume 86, Number 9, pages 3157–3158.

The meeting date, time, and contact information should read as follows:

Date: April 6, 2021

Time: 10 a.m.–6 p.m., EDT

The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Jaya Raman, Ph.D., Scientific Review Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway NE, Mailstop S107–8, Atlanta, Georgia 30341, telephone (770) 488–6511; *JRaman@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–06008 Filed 3–23–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–IP–21–003, Collaborative Research on Influenza, Coronavirus Disease 2019 (COVID–19), and Other Respiratory Pathogens in South Africa; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–IP–21–003, Collaborative Research on Influenza, Coronavirus Disease 2019 (COVID–19), and Other Respiratory Pathogens in South Africa; May 13, 2021, 10 a.m.–5 p.m., EDT, Teleconference, Centers for Disease Control and Prevention, Room 1080, 8 Corporate Square Boulevard, Atlanta, Georgia 30329–4027. The meeting was published in the **Federal Register** on January 11, 2021, Volume 86, Number 6, pages 1976–1977.

The meeting is being amended to change the title and meeting dates of the special emphasis panel from RFA–IP–21–003, Collaborative Research on Influenza, Coronavirus Disease 2019 (COVID–19), and Other Respiratory Pathogens in South Africa; May 13, 2021, 10 a.m.–5 p.m., EDT to RFA–IP–21–002, US Enhanced Surveillance Network to Assess Burden, Natural History, and Effectiveness of Vaccines to Prevent Enteric and Respiratory Viruses in Children; May 4–5, 2021, 10 a.m.–5 p.m., EDT. The meeting is closed to the public.

FOR FURTHER INFORMATION CONTACT: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop US8–1, Atlanta, Georgia 30329–4027, (404) 718–8833, *ganderson@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–06007 Filed 3–23–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Child Care and Development Fund (CCDF) ACF–696 Financial Report (OMB #0970–0163)

AGENCY: Office of Child Care, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the form ACF–696: Child Care and Development Fund (CCDF) Quarterly Financial Report. This form is currently approved under the ACF Generic Clearance for Financial Reports (OMB #0970–0510; expiration May 31, 2021), and ACF is proposing to reinstate the previous OMB number under which this form had been approved. There are no changes requested to the form.

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.

SUPPLEMENTARY INFORMATION:

Description: The ACF-696 Financial Report along with the instructions for completion of Form ACF–696, Financial Reporting Form for CCDF are being submitted for renewal with no changes. The form collects CCDF financial expenditures data for the 50 States, the District of Columbia, and five U.S. Territories that receive CCDF funding (American Samoa, Commonwealth of Northern Mariana Islands, Guam, Puerto Rico, and Virgin Islands). This report form is submitted quarterly by the referenced CCDF grant recipients. The form collects expenditures data for all respondents that receive CCDF funding.

Respondents: The 50 States, the District of Columbia, and five U.S. Territories that receive CCDF funding (American Samoa, Commonwealth of

Northern Mariana Islands, Guam, Puerto Rico, and Virgin Islands).

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Child Care and Development Fund ACF–696 Financial Report	56	4	5	1120

Estimated Total Annual Burden Hours: 1120.

Authority: Section 658G(d), Pub. L. 113–186, 128 Stat. 1971.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–05991 Filed 3–23–21; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Child Care and Development Fund (CCDF) ACF–696T Financial Report (OMB #0970–0195)

AGENCY: Office of Child Care, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a 3-year extension of the form ACF–696T: Child Care and Development Fund Annual Financial Report. This form is currently approved under the ACF Generic Clearance for Financial Reports (OMB #0970–0510; expiration May 31, 2021), and ACF is proposing to reinstate the previous OMB number under which this form had been approved. There are no changes requested to the form.

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.

SUPPLEMENTARY INFORMATION:

Description: The ACF–696T Financial Report along with the instruction for completion of Form ACF–696T Financial Reporting Form for the Child Care and Development Fund (CCDF) are being submitted for renewal with no changes under a previous OMB number. The form collects CCDF financial expenditures data for the 221 Tribal Lead Agencies that receive CCDF funding. This report form is submitted annually by the referenced CCDF grant recipients. The form collects expenditures data for all respondents that receive CCDF funding.

Respondents: The 221 Tribal Lead Agencies that receive CCDF funding.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Annual number of responses per respondent	Annual burden hours per response	Annual burden hours
Child Care and Development Fund ACF–696T Financial Report	221	1	5	1105

Estimated Total Annual Burden Hours: 1105.

Authority: Section 658G(d), Pub. L. 113–186, 128 Stat. 1971.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–05992 Filed 3–23–21; 8:45 am]

BILLING CODE 4184–43–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–3240]

List of Bulk Drug Substances for Which There Is a Clinical Need Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is developing a list of bulk drug substances (active pharmaceutical ingredients) for which there is a clinical need (the 503B Bulks List). Drug products that outsourcing facilities compound using bulk drug substances on the 503B Bulks List can qualify for certain exemptions from the Federal Food, Drug, and Cosmetic Act (FD&C Act) provided certain conditions are met. This notice identifies one bulk drug substance that FDA has considered and proposes to include on the 503B Bulks List: Quinacrine hydrochloride (''quinacrine''). This notice identifies four bulk drug substances that FDA has considered and proposes not to include on the list: Bromfenac sodium, mitomycin-C, nepafenac, and hydroxychloroquine sulfate. Additional bulk drug substances nominated by the public for inclusion on this list are currently under consideration and may be the subject of future notices.

DATES: Submit either electronic or written comments on the notice by May 24, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 24, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 24, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–3240 for ''List of Bulk Drug Substances for Which There is a Clinical Need Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hankla, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5216, Silver Spring, MD 20993, 240–402–3359.

SUPPLEMENTARY INFORMATION:

I. Background

Section 503B of the FD&C Act (21 U.S.C. 353b) describes the conditions that must be satisfied for drug products compounded by an outsourcing facility to be exempt from section 505 (21 U.S.C. 355) (concerning the approval of drugs under new drug applications (NDAs) or abbreviated new drug applications (ANDAs)), section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use), and section 582 of the FD&C Act (21 U.S.C. 360eee–1) (concerning drug supply chain security requirements).[1]

Drug products compounded that meet the conditions in section 503B are not exempt from current good manufacturing practice (CGMP) requirements in section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)(B)).[2] Outsourcing facilities are also subject to FDA inspections according to a risk-based schedule, specific adverse event reporting requirements, and other conditions that help to mitigate the risks of the drug products they compound.[3] Outsourcing facilities may or may not obtain prescriptions for identified individual patients and can, therefore, distribute compounded drugs to healthcare practitioners for ''office stock,'' to hold in their offices in advance of patient need.[4]

One of the conditions that must be met for a drug product compounded by an outsourcing facility to qualify for exemptions under section 503B of the FD&C Act is that the outsourcing facility may not compound a drug using a bulk drug substance unless: (1) The bulk drug substance appears on a list established by the Secretary of Health and Human Services identifying bulk drug substances for which there is a clinical need (the 503B Bulks List) or (2) the drug compounded from such bulk drug substances appears on the drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e) at the time of compounding, distribution, and dispensing.[5]

Section 503B of the FD&C Act directs FDA to establish the 503B Bulks List by: (1) Publishing a notice in the **Federal Register** proposing bulk drug substances to be included on the list, including the rationale for such proposal; (2) providing a period of not less than 60

[1] Section 503B(a) of the FD&C Act.

[2] Compare section 503A(a) of the FD&C Act (21 U.S.C. 353a(a); exempting drugs compounded in accordance with that section) with section 503B(a) of the FD&C Act (not providing the exemption from CGMP requirements).

[3] Section 503B(b)(4) and (5) of the FD&C Act.

[4] Section 503B(d)(4)(C) of the FD&C Act.

[5] Section 503B(a)(2)(A) of the FD&C Act.

calendar days for comment on the notice; and (3) publishing a notice in the **Federal Register** designating bulk drug substances for inclusion on the list.[6]

FDA has published a series of **Federal Register** notices addressing bulk drug substances nominated for inclusion on the 503B Bulks List.[7] This notice identifies one bulk drug substance that FDA has considered and proposes to include on the 503B Bulks List and four bulk drug substances that FDA has considered and proposes not to include on the 503B Bulks List.

For purposes of section 503B of the FD&C Act, *bulk drug substance* means an active pharmaceutical ingredient as defined in 21 CFR 207.1.[8] *Active pharmaceutical ingredient* means any substance that is intended for incorporation into a finished drug product and is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body, but the term does not include intermediates used in the synthesis of the substance.[9] [10]

For further information about drug compounding and the background for the 503B Bulks List, see 83 FR 43877 (August 28, 2018).

II. Methodology for Developing the 503B Bulks List

A. Process for Developing the List

FDA requested nominations for specific bulk drug substances for the Agency to consider for inclusion on the 503B Bulks List in the **Federal Register** of December 4, 2013 (78 FR 72838). FDA reopened the nomination process in the **Federal Register** of July 2, 2014 (79 FR 37747), and provided more detailed information on what FDA needs to evaluate nominations for the list. On October 27, 2015 (80 FR 65770), the Agency opened a new docket, FDA–2015–N–3469, to provide an opportunity for interested persons to submit new nominations of bulk drug substances or to renominate substances with sufficient information.

As FDA evaluates bulk drug substances, it intends to publish notices for public comment in the **Federal Register** that describe the FDA's proposed position on each substance along with the rationale for that position.[11] After considering any comments on FDA's proposals regarding whether to include nominated substances on the 503B Bulks List, FDA intends to consider whether input from the Pharmacy Compounding Advisory Committee (PCAC) on the nominations would be helpful to the Agency in making its determination, and if so, it will seek PCAC input.[12] Depending on its review of the docket comments and other relevant information before the Agency, FDA may finalize its proposed determination without change, or it may finalize a modification to its proposal to reflect new evidence or analysis regarding clinical need. FDA will then publish in the **Federal Register** a list identifying the bulk drug substances for which it has determined there is a clinical need and FDA's rationale in making that final determination. FDA will also publish in the **Federal Register** a list of those substances it considered but found that there is no clinical need to use in compounding and FDA's rationale in making this decision.

FDA intends to maintain a list of all bulk drug substances it has evaluated on its website, and separately identify bulk drug substances it has placed on the 503B Bulks List and those it has decided not to place on the 503B Bulks List. This list is available at *https://www.fda.gov/media/120692/download.* FDA will only place a bulk drug substance on the 503B Bulks List where it has determined there is a clinical need for outsourcing facilities to compound drug products using the bulk drug substance. If a clinical need to compound drug products using the bulk drug substance has not been demonstrated, based on the information submitted by the nominator and any other information considered by the Agency, FDA will not place a bulk drug substance on the 503B Bulks List.

FDA is evaluating bulk drug substances nominated for the 503B Bulks List on a rolling basis. FDA intends to evaluate and publish in the **Federal Register** its proposed and final determinations in groups of bulk drug substances until all nominated substances that were sufficiently supported have been evaluated and either placed on the 503B Bulks List or identified as bulk drug substances that were considered but determined not to be appropriate for inclusion on the 503B Bulks List (Ref. 1).[13]

B. Analysis of Substances Nominated for the List

As noted above, the 503B Bulks List will include bulk drug substances for which there is a clinical need. The Agency is currently evaluating bulk drug substances that were nominated for inclusion on the 503B Bulks List, proceeding case by case, under the clinical need standard provided by the statute (Ref. 2).[14] In applying this standard to develop the proposals in this notice, FDA is interpreting the phrase ''bulk drug substances for which there is a clinical need'' to mean that the 503B Bulks List may include a bulk drug substance if: (1) There is a clinical need for an outsourcing facility to compound the drug product and (2) the drug product must be compounded using the bulk drug substance. FDA is not interpreting supply issues, such as backorders, to be within the meaning of ''clinical need'' for compounding with a bulk drug substance. Section 503B separately provides for compounding from bulk drug substances under the exemptions from the FD&C Act

[6] Section 503B(a)(2)(A)(i)(I) to (III) of the FD&C Act.

[7] See **Federal Register** of August 28, 2018 (83 FR 43877), March 4, 2019 (84 FR 7383), September 3, 2019 (84 FR 46014), and July 31, 2020 (85 FR 46126). The comment period for the July 2020 notice was reopened for 30 days on January 8, 2021 (86 FR 1515), to allow interested parties an additional opportunity to comment. FDA has not yet reached a final determination on whether the substances evaluated in the September 2019 or July 2020 notice will be added to the 503B Bulks List. In addition, bumetanide, which was considered in the August 2018 notice remains under consideration by the Agency.

[8] 21 CFR 207.3.

[9] Section 503B(a)(2) of the FD&C Act and 21 CFR 207.1.

[10] Inactive ingredients are not subject to section 503B(a)(2) of the FD&C Act and will not be included in the 503B Bulks List because they are not included within the definition of a bulk drug substance. Pursuant to section 503B(a)(3) of the FD&C Act, inactive ingredients used in compounding must comply with the standards of an applicable U.S. Pharmacopeia (USP) or National Formulary monograph, if a monograph exists.

[11] This is consistent with procedure set forth in section 503B(a)(2)(A)(i) of the FD&C Act. Although the statute only directs FDA to issue a **Federal Register** notice and seek public comment when it proposes to include bulk drug substances on the 503B Bulks List, we intend to seek comment when the Agency has evaluated a nominated substance and proposes either to include or not to include the substance on the list.

[12] Section 503B of the FD&C Act does not require FDA to consult the PCAC before developing a 503B Bulks List.

[13] On January 13, 2017, FDA announced the availability of a revised final guidance for industry that provides additional information regarding FDA's policies for bulk drug substances nominated for the 503B Bulks List pending our review of nominated substances under the ''clinical need'' standard entitled Interim Policy on Compounding Using Bulk Drug Substances Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' (''Interim Policy''); available at *https://www.fda.gov/media/94402/download.*

[14] On March 4, 2019, FDA announced the availability of a final guidance entitled ''Evaluation of Bulk Drug Substances Nominated for Use in Compounding Under Section 503B of the Federal Food, Drug, and Cosmetic Act'' (84 FR 7390); available at *https://www.fda.gov/media/121315/download.* This guidance describes FDA policies for developing the 503B Bulks List and the Agency's interpretation of the phrase ''bulk drug substances for which there is a clinical need'' as it is used in section 503B of the FD&C Act. The analysis under the statutory clinical need'' standard described in this notice is consistent with the approach described in FDA's guidance.

discussed above if the drug product compounded from the bulk drug substance is on the FDA drug shortage list at the time of compounding, distribution, and dispensing. Additionally, we are not considering cost of the compounded drug product as compared with an FDA-approved drug product to be within the meaning of ''clinical need.''

Some of the bulk drug substances that we are addressing in this notice are components of FDA-approved drug products,[15] and we therefore began our evaluation of these bulk drug substances by asking one or both of the following questions:

(1) Is there a basis to conclude, for each FDA-approved product that includes the nominated bulk drug substance, that: (a) An attribute of the FDA-approved drug product makes it medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation and (b) the drug product proposed to be compounded is intended to address that attribute?

(2) Is there a basis to conclude that the drug product proposed to be compounded must be produced from a bulk drug substance rather than from an FDA-approved drug product?

The reason for question 1 is that unless an attribute of the FDA-approved drug is medically unsuitable for certain patients, and a drug product compounded using a bulk drug substance that is a component of the approved drug is intended to address that attribute, there is no clinical need to compound a drug product using that bulk drug substance. Rather, such compounding would unnecessarily expose patients to the risks associated with drug products that do not meet the standards applicable to FDA-approved drug products for safety, effectiveness, quality, and labeling and would undermine the drug approval process. The reason for question 2 is that to place a bulk drug substance on the 503B Bulks List, FDA must determine that there is a clinical need for outsourcing facilities to compound a drug product *using the bulk drug substance* rather than starting with an FDA-approved drug product.

If the answer to both of these questions is ''yes,'' there may be a clinical need for outsourcing facilities to compound using the bulk drug substance, and we would evaluate the substance further, applying the factors described below. If the answer to either of these questions is ''no,'' we generally would not include the bulk drug substance on the 503B Bulks List, because there would not be a basis to conclude that there may be a clinical need to compound drug products using the bulk drug substance instead of administering or compounding starting with an approved drug product. FDA did not answer ''yes'' to both of the threshold questions for the four bulk drug substances that are components of approved drug products that we are addressing in this notice. Accordingly, as explained further below, we did not proceed further in our evaluation of these substances and are proposing not to include them on the 503B Bulks List.

With respect to one bulk drug substance we are addressing in this notice that is not a component of an FDA-approved drug product, quinacrine, we are conducting a balancing test with four factors, considering each factor in the context of the others and balancing them to determine whether the statutory ''clinical need'' standard has been met. The balancing test includes the following factors:

- The physical and chemical characterization of the substance;
- any safety issues raised by the use of the substance in compounding;
- the available evidence of effectiveness or lack of effectiveness of a drug product compounded with the substance, if any such evidence exists; and
- current and historical use of the substance in compounded drug products, including information about the medical condition(s) that the substance has been used to treat and any references in peer-reviewed medical literature.

The discussion below reflects FDA's consideration of these four factors where they are applicable and describes how they were applied to develop FDA's proposal to include one bulk drug substance on the 503B Bulks List.

C. Inclusion of a Bulk Drug Substance on the 503B Bulks List

In preparing its proposal to include a substance on the 503B Bulks List, FDA considered whether the clinical need for the bulk drug substance in the compounded drug product is limited, by, for example, route of administration or dosage form. As appropriate, and as explained further below, the Agency tailored its proposed entry on the 503B Bulks List to reflect its findings related to clinical need for the bulk substance proposed for inclusion on the list. Specifically, the proposed entry would authorize use of this bulk drug substance to compound drug products for oral use only.[16]

III. Substance Considered and Proposed for Inclusion on the 503B Bulks List

Because the substance in this section is not a component of an FDA-approved drug product, we applied the balancing test described above. The bulk drug substance that has been evaluated and that FDA is proposing to place on the 503B Bulks List is quinacrine HCl. The reasons for FDA's proposal is included below (Ref. 3).[17]

Quinacrine

FDA nominated quinacrine as a bulk drug substance for the 503B Bulks List to compound drug products in oral dosage forms at strengths of 25–100 milligram (mg) for the treatment of cutaneous lupus erythematosus (CLE).[18] The nominated bulk drug substance is not a component of an FDA-approved drug product. We evaluated quinacrine for potential inclusion on the 503B Bulks List under the clinical need standard in section 503B of the FD&C Act, considering data and information regarding the physical and chemical characterization of quinacrine, safety issues raised by use of this substance in compounding, available evidence of effectiveness or lack of effectiveness, and historical and current use in compounding (Ref. 3).

Quinacrine is well-characterized physically and chemically. Although there are concerns about its safety profile in certain patient populations, we believe these risks are well known within the rheumatology and dermatology specialties that most often treat CLE, and the known risks could be

[15] Specifically, bromfenac sodium, mitomycin-C, nepafenac, and hydroxychloroquine sulfate.

[16] FDA requested comments on the proposal to limit listings in this manner in notice of July 31, 2020 (85 FR 46126). The comment period for the July 2020 notice was reopened for 30 days on January 8, 2021 (86 FR 1515), to allow interested parties an additional opportunity to comment. The Agency has not finished evaluating the comments received on this proposal, and we intend to take all comments on this issue into consideration in developing our final approach to listing substances on the 503B Bulks List.

[17] In addition to FDA's quinacrine nomination for the 503B Bulks List, the Agency considered data and information from its earlier evaluation regarding the use of this bulk drug substance for the list of bulk drug substances that can be used in compounding under section 503A of the FD&C Act (the 503A Evaluation). See Appendices A–D in ''FDA Memo to File, Clinical Need for Quinacrine Hydrochloride in Compounding Under Section 503B of the FD&C Act'' (Ref. 3). FDA also considered a report provided by the University of Maryland Center of Excellence in Regulatory Science and Innovation and conducted a search for relevant scientific literature and safety information, focusing on materials published or submitted to FDA since the 503A Evaluations (see Appendix H in Ref. 3).

[18] See Appendix G in Ref. 3.

controlled with appropriate dosing and monitoring. Quinacrine has been used for several decades to treat systemic lupus erythematosus and CLE, and there is a significant body of experience, documented in the scientific literature, that quinacrine may be effective in the treatment of patients with cutaneous lupus, and patients who are not fully clinically responsive to, or are intolerant of, treatment with FDA approved products alone. These patients may respond to the addition of quinacrine to their existing therapy, or to the use of quinacrine alone. On balance, the physical and chemical characterization, safety, effectiveness, and historical and current use of quinacrine weigh in favor of including this substance on the 503B Bulks List. Accordingly, we propose adding quinacrine to the 503B Bulks List for oral use only. We have not identified sufficient evidence to support its use in other routes of administration.

Due to the safety risks referred to above, if quinacrine is placed on the 503B Bulks List, FDA intends to make safety information about the use of quinacrine available to prescribers, pharmacists, outsourcing facilities, and the public through information on FDA's website, in a safety guide, or through other mechanisms, as appropriate.

IV. Substances Evaluated and Not Proposed for Inclusion on the 503B Bulks List

Because the substances in this section are components of FDA-approved drug products, we considered one or both of the following questions: (1) Is there is a basis to conclude that an attribute of each FDA-approved drug product containing the bulk drug substance makes each one medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation, and the drug product proposed to be compounded is intended to address that attribute and (2) is there a basis to conclude that the drug product proposed to be compounded must be compounded using a bulk drug substance.

The four bulk drug substances that have been evaluated and that FDA is proposing not to place on the list are as follows: Bromfenac sodium, mitomycin-C, nepafenac, and hydroxychloroquine sulfate. The reasons for FDA's proposals are included below.

A. Bromfenac Sodium

Bromfenac sodium was nominated in combination with moxifloxacin hydrochloride and prednisolone for inclusion on the 503B Bulks List to compound drug products for postoperative inflammation and pain following cataract surgery.[19] The proposed route of administration is ophthalmic, the proposed dosage forms are an ophthalmic injection [20] and a topical ophthalmic solution,[21] and the proposed compounded product is prednisolone-moxifloxacin-bromfenac (1-0≤.5/0.4 percent). The nominated bulk drug substance, bromfenac sodium, is a component of FDA-approved drug products (*e.g.,* ANDA 203395, NDA 206911, and NDA 203168). FDA has approved bromfenac sodium products as 0.07 percent, 0.075 percent, and 0.09 percent EQ [22] acid ophthalmic solution.[23] [24] The nomination proposes to combine bromfenac sodium with two other bulk drug substances, moxifloxacin hydrochloride and prednisolone, both of which are components of FDA-approved products. Prednisolone acetate [25] is a component of FDA-approved drug products (NDA 017469 and NDA 017011) [26] [27] and is available in a 1 milliliter (mL), 5 mL, 10 mL, and 15 mL suspension containing prednisolone acetate 1.0 percent. Moxifloxacin hydrochloride is a component of FDA-approved drug products (*e.g.,* NDA 021598 and NDA 022428) [28] [29] and is available as an EQ 0.5 percent base ophthalmic solution.

1. Suitability of FDA-Approved Drug Product(s)

The nomination does not identify a medical unsuitability in any of the FDA-approved products that contain bromfenac, prednisolone, or moxifloxacin hydrochloride when these products are administered separately. Instead, it states that the single active-ingredient formulation of these products may make them unsuitable for co-administration after ocular surgeries. Specifically, the nomination states that ''Compounded formulations may alleviate the need for multiple postoperative drops. Topical compounded formulations also may improve patient compliance and alleviate patient confusion because they typically require use of fewer drops.''

However, the labeling for the FDA-approved bromfenac sodium products (*e.g.,* ANDA 203395) specifically warns against the use of bromfenac sodium with topical corticosteroids, which include prednisolone. This is because the use of bromfenac sodium with topical corticosteroids may increase the potential for healing problems.[30] The nomination does not address this warning or provide support for the co-administration of these drug products. We decline to find that the approved drugs are medically unsuitable for some patients because they may be difficult to administer to patients under circumstances that are specifically

[19] See Docket No. FDA–2015–N–3469, document no. FDA–2015–N–3469–0004. We assume ''bromfenac'' as used in the nomination refers to bromfenac sodium. The nominator did not nominate moxifloxacin hydrochloride or prednisolone separately.

[20] We assume ''injection'' as used in the nomination refers to ophthalmic injection.

[21] The nominator did not specify whether they propose to make an ophthalmic solution or an ophthalmic suspension. We only considered ophthalmic solutions for this review because ''[a]ll drug products containing bromfenac sodium (except ophthalmic solutions)'' is on the list of ''Drug products withdrawn or removed from the market for reasons of safety or effectiveness,'' codified at 21 CFR 216.24 and available at *https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=216.24,* and should not be used in compounding.

[22] EQ refers to the equivalent strength of the active moiety. See *https://www.fda.gov/drugs/development-approval-process-drugs/orange-book-preface.*

[23] See, *e.g.,* ANDA 203395 labeling available as of the date of this notice at *http://fdalabel.fda.gov/fdalabel-r/services/spl/set-ids/e853723e-8419-4444-89e9-ee3f571b0974/spl-doc.*

[24] See, *e.g.,* NDA 206911 labeling available as the date of this notice at *https://www.accessdata.fda.gov/spl/data/3ae02266-5a0f-4bf2-bc68-ae1c7d2f5239/3ae02266-5a0f-4bf2-bc68-ae1c7d2f5239.xml.*

[25] The nomination did not specify which prednisolone active pharmaceutical ingredient (API) is proposed to be included in their combination. There are several approved ophthalmic formulations of prednisolone acetate or prednisolone sodium phosphate in combination with anti-infectives. The only single ingredient 1% suspension approved for ophthalmic use is prednisolone acetate. It is approved under two separate NDAs, 017469 as OMNIPRED and 017011 as Pred-Forte®. OMNIPRED is available as 5 mL and 10 mL and Pred-Forte® is available in 1 mL, 5 mL, 10 mL, and 15 mL suspension containing prednisolone acetate 1.0%.

[26] See, *e.g.,* NDA 017011 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/3fbf3327-59a2-4e6e-9e43-4f63ea23d54e/3fbf3327-59a2-4e6e-9e43-4f63ea23d54e.xml.*

[27] See, *e.g.,* NDA017469 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/00c60dec-b63c-43ac-9f87-88aeff333136/00c60dec-b63c-43ac-9f87-88aeff333136.xml.*

[28] See, *e.g.,* NDA 021598 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/f9febc6f-db6d-44e8-9730-f7c1a2354d71/f9febc6f-db6d-44e8-9730-f7c1a2354d71.xml.*

[29] See, *e.g.,* NDA 022428 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/41ea7ffb-02e7-44bd-8ec6-6d4c8e116b99/41ea7ffb-02e7-44bd-8ec6-6d4c8e116b99.xml.*

[30] According to the ''Warnings and Precautions'' section of the FDA-approved labeling for ANDA 203395, ''All topical nonsteroidal anti-inflammatory drugs (NSAIDs) may slow or delay healing. Topical corticosteroids are also known to slow or delay healing. Concomitant use of topical NSAIDs and topical steroids may increase the potential for healing problems.'' See *http://fdalabel.fda.gov/fdalabel-r/services/spl/set-ids/e853723e-8419-4444-89e9-ee3f571b0974/spl-doc.*

warned against in the approved labeling.

Because co-administration of these products is the subject of a labeled warning, and therefore an inappropriate basis for a finding of clinical need, we do not evaluate the nomination's claims further. However, to help explain our thinking about this nomination and inform public comment, we address the nomination's statement that there is a clinical need to compound a drug containing multiple active ingredients because it may improve patient compliance relative to prescribing FDA-approved drugs that contain a single active ingredient. The nomination does not state that the approved drugs would be medically unsuitable for some patients for the conditions identified in the nomination, and it does not provide data or evidence to support that proposition. Reducing the number of drugs administered for the purpose of convenience is not ''clinical need''; medical unsuitability of the approved drugs is required. While clinical need does not have to be fully established in FDA's analysis of questions 1 and 2, there must be a basis to conclude that such a need may exist before FDA will proceed to the more searching analysis conducted under the balancing test. No such basis is present here.[31]

Accordingly, with respect to the bromfenac sodium drug products proposed to be compounded by the nominator, FDA finds no basis to conclude that there is an attribute of each of the FDA approved drug products that makes each one medically unsuitable to treat certain patients who undergo cataract surgery. There is therefore no attribute of the approved drug products that the proposed compounded drug products are intended to address.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

Because we have not identified a population for whom the approved products are medically unsuitable for the proposed uses under question 1, we are not considering whether there is a basis to conclude that the drug products proposed to be compounded must be produced from a bulk drug substance rather than from an FDA-approved drug product under question 2.

3. Additional Comments

For the reasons stated above, we are not evaluating this nomination under the balancing test. However, if this nomination for bromfenac sodium was to proceed to the balancing test, there would be some significant safety and effectiveness concerns to evaluate, which are not addressed in the nomination.

Each of the three ingredients proposed to be used in combination by the nomination is indicated for different medical conditions and has a different FDA-approved dosing regimen: Once daily for bromfenac sodium 0.09 percent,[32] four times daily for prednisolone acetate [33] and three times daily for moxifloxacin hydrochloride.[34] The duration of treatment for each individual drug also differs.

The nomination also describes compounding drug products that include bromfenac sodium in a concentration (EQ 0.4 percent acid) [35] that is more than four times higher than the FDA-approved product (the approved product is available at concentrations of EQ 0.07 percent acid, EQ 0.075 percent acid, and EQ 0.09 percent acid). The nomination does not provide any data or information supporting the need for a higher concentration than the approved drug.

Most of the bulk drug substance nominations FDA has evaluated to date have only proposed to compound drug products containing a single active ingredient. This nomination proposed to compound drug products containing more than one active ingredient. If FDA finalizes its proposal not to include bromfenac sodium on the 503B Bulks List, we intend to remove the substance from Category 1 for purposes of the Interim Policy, which would mean that ophthalmic solutions compounded using the bulk drug substance bromfenac sodium, including the proposed compounded products addressed in this notice, would fall outside the enforcement discretion described in the Interim Policy. We note that FDA's evaluation of bromfenac sodium for inclusion on the 503B Bulks List will not impact FDA's evaluation of any other bulk drug substances for inclusion on the 503B Bulks List, including prednisolone and moxifloxacin hydrochloride, because each bulk drug substance nominated for inclusion on the 503B Bulks List undergoes its own evaluation. We previously proposed not to include moxifloxacin hydrochloride on the 503B Bulks List (85 FR 46126), and we are currently reviewing comments on that nomination. Nominations for prednisolone, if they are not withdrawn, remain the subject of future evaluations. Finally, if FDA determines there is a clinical need for outsourcing facilities to use bulk drug substances to compound the proposed drug products, we would include each substance or combination of substances, as appropriate, on the 503B Bulks List at the time that final determination is made.

B. Mitomycin-C

Mitomycin-C was nominated for inclusion on the 503B Bulks List to compound drug products that treat stomach, pancreas, anal (nonmetastatic), bladder, cervical (recurrent or metastatic), esophageal, gastric, and non-small cell lung cancer.[36] The proposed route of administration is injection and the proposed concentration is 20–40 mg. We evaluated the proposed products for both the intravenous and intravesical routes of administration because the nomination proposed that there is a need for a compounded mitomycin-C drug product for injection and we understand that mitomycin-C is used for both intravesical and intravenous administration in certain oncological conditions. The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* ANDA 064144, NDA 022572, and NDA 211728).[37] FDA-approved mitomycin-C

[31] In general, we do not expect to find clinical need for a bulk drug substance to compound drug products containing two or more bulk drug substances unless: (1) Combining the substances is intended to address the medical unsuitability of the FDA-approved drug products for certain patients and (2) the combination is likely to address a clinical need that could not be addressed by delivering each component of the drug product alone. Not including drug products with two or more active ingredients on the 503B Bulks List unless these conditions are met helps to ensure that patients are not exposed to a drug product containing an unnecessary active ingredient, helps avoid risks of unwanted interactions or complications in formulation, and protects the integrity of the drug approval process.

[32] Bromfenac sodium EQ 0.09% acid solution (*e.g.,* ANDA 203395) should be applied to the affected eye once daily beginning 1 day prior to cataract surgery, continued on the day of surgery, and through the first 14 days of the postoperative period.

[33] Two drops topically in the eye(s) four times daily (*e.g.,* NDA 017469).

[34] Instill one drop in the affected eye 3 times a day for 7 days (*e.g.,* NDA 021598).

[35] The nomination states ''0.4%.'' We assume the nominator intended a concentration of EQ 0.4% acid.

[36] See Docket No.FDA–2013–N–1524, document no. FDA–2013–N–1524–2219.

[37] Jelmyto, NDA 211728 was approved on April 15, 2020, as a 40 mg/vial powder for pyelocaliceal administration for the treatment of adult patients with low-grade Upper Tract Urothelial Cancer (LG–UTUC). Jelmyto has not been considered in this memorandum because of the complex nature of the approved product and the fact that there is a more appropriate comparator approved drug product (mitomycin as a 5, 20, and 40 mg vial for solution for intravenous administration). While the nominated dosage form is unclear (''injection''), we assume that the nominator intended to nominate a solution or a powder for solution for intravesical

(*e.g.,* ANDA 064114) is available as a 5, 20, and 40 mg/mL vial for intravenous administration.[38] Mitomycin is also approved as a 0.2 mg vial, which when reconstituted with Sterile Water for Injection, provides a solution for application in glaucoma filtration surgery for use as an adjunct to ab externo glaucoma surgery (*e.g.,* NDA 022572).

1. Suitability of FDA-Approved Drug Product(s)

Regarding the proposed use to treat bladder cancer, the nomination does not explain why an attribute of each of the FDA-approved 5, 20, and 40 mg vials of lyophilized powder for reconstituting into solution is medically unsuitable for the proposed use. For example, if there are patients for whom products for intravenous administration would be medically unsuitable, the nomination does not provide support or explain why the FDA-approved products, or products prepared using the FDA-approved products could not be used for intravesical administration.[39] The nomination states that it may be necessary to compound a mitomycin-C drug product to attain a ''higher, more efficacious dose,'' but the nomination does not identify any specific higher concentrations that the nominator proposes to compound. The approved product is available as a lyophilized powder, which according to the approved labeling, is reconstituted to a final concentration of 0.5 mg/mL or below.[40] While the nomination includes two articles which indicate that there could be a need for a product with a concentration above 0.5 mg/mL,[41] the nomination does not identify an attribute of the FDA-approved products that makes them medically unsuitable to treat certain patients and that the proposed compounded drug products are intended to address. Further, the nomination proposes to ''include excipients to prevent urine acidification,'' but the nomination does not identify which excipients are proposed for the compounded product, nor does the nomination provide any data or information supporting how the proposed compounded drug products will address that concern.[42]

Regarding the proposed use to treat stomach, pancreas, anal (nonmetastic), cervical (recurrent or metastic), esophageal, gastric, and non-small cell lung cancer, the nomination does not identify an attribute for each FDA-approved product that makes it medically unsuitable to treat certain patients for these conditions and that the proposed compounded products are intended to address.

Accordingly, with respect to the mitomycin products proposed to be compounded, FDA finds no basis to conclude that an attribute of the FDA-approved products makes them medically unsuitable to treat certain patients for a condition that FDA has identified for evaluation and that the proposed compounded drug products are intended to address.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

Because the nomination does not identify a population for whom the FDA-approved products are medically unsuitable for the proposed uses, FDA did not consider whether there is a basis to conclude that the drug products proposed to be compounded must be produced from a bulk drug substance rather than from an FDA-approved drug product under question 2.

C. Nepafenac

Nepafenac was nominated in combination with other bulk drug substances, including prednisolone and gatifloxacin,[43] for inclusion on the 503B Bulks List to compound drug products for ''post cataract surgery ocular complications related to pain, inflammation or bacterial conjunctivitis.'' [44] The proposed route of administration is topical ophthalmic, the proposed dosage forms are a preserved (multidose) and a preservative-free (unit dose) topical ophthalmic suspension, and the proposed compounded products are: (1) ''Nepafenac 0.1%-Prednisolone 1%;'' and (2) ''Nepafenac 0.1%-Prednisolone 1%-Gatifloxacin 0.5%.'' The nominated bulk drug substance, nepafenac, is a component of FDA-approved drug products (*e.g.,* NDA 021862 and NDA 203491).[45] [46] FDA has approved nepafenac as 1.7 mL dropper bottle, and a 4 mL dropper bottle filled with 3 mL sterile ophthalmic suspension containing 0.1 percent (1 mg/mL) nepafenac and as a 4 mL bottle filled with 1.7 mL and 3 mL sterile ophthalmic suspension containing 0.3 percent (3 mg/mL) nepafenac for topical administration.[47] The nomination proposes to combine nepafenac with two other bulk drug substances, prednisolone and gatifloxacin, both of which are components of FDA-approved products. Prednisolone acetate [48] is a component of FDA-approved drug products (NDA 017469 and NDA 017011) and is available in a 1 mL, 5 mL, 10 mL, and 15 mL suspension containing prednisolone acetate 1.0 percent.[49] [50] Gatifloxacin is a

administration (not, as Jelmyto is, a gel for pyelocaliceal administration).

[38] See, *e.g.,* ANDA 064144 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/55ab68d0-c46a-2f41-e054-00144ff88e88/55ab68d0-c46a-2f41-e054-00144ff88e88.xml.* When reconstituted with Sterile Water for Injection, ANDA 064144, and other ANDAs like it, provide a solution for intravenous administration for therapy of disseminated adenocarcinoma of the stomach or pancreas in proven combinations with other approved chemotherapeutic agents and as palliative treatment when other modalities have failed.

[39] In noting this issue, FDA is not suggesting or implying that the approved drug products, or products prepared from them, are approved for the use proposed by the nomination. Mitomycin-C 5, 20, or 40 mg vials of lyophilized powders for solution (for reconstitution) have not been shown to be safe and effective for intravesical administration to treat any condition or disease.

[40] The approved product (*e.g.,* ANDA 064144) is available as a 5, 20, and 40 mg vial of lyophilized powder, which according to the approved labeling, is reconstituted in 10 mL, 40 mL or 80 mL Sterile Water for Injection respectively for intravenous administration.

[41] For example, the nomination cites two articles which used mitomycin administered intravesically for bladder cancer (Refs. 4 and 5). Colombo et al, 2012 administered mitomycin 40 mg in 40 mL saline (1 mg/mL) intravesically to patients and Au et al, 2001 administered mitomycin 40 mg in 20 mL of sterile water (2 mg/mL) or 20 mg in 20 mL of sterile water (1 mg/mL) intravesically to patients (Ref. 4).

[42] The nomination included one article that states, ''[i]n the case of mitomycin C, instability of the drug in acidic urine is an additional problem.'' However, the article does not identify excipients that could be added to intravesically administered mitomycin drug products to address this particular attribute of the approved product. Nor does the article provide data or information to support the need for a compounded drug product containing such excipients. Rather, it discusses administering oral doses of sodium bicarbonate before treatment with an intravesical mitomycin drug product to reduce the acidity of the patient's urine (Ref. 5).

[43] The nominator did not nominate prednisolone or gatifloxacin separately.

[44] See Docket No. FDA–2015–N–3469, document no. FDA–2015–N–3469–0022.

[45] See, *e.g.,* NDA 021862 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2020/021862s017lbl.pdf.*

[46] See, *e.g.,* NDA 203491 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2012/203491s001lbl.pdf.*

[47] See fns. 45 and 46, above.

[48] The nominator did not specify which prednisolone API is proposed to be included in their combinations. There are several approved ophthalmic formulations of prednisolone acetate or prednisolone sodium phosphate in combination with anti-infectives. The only single ingredient 1% suspension approved for ophthalmic use is prednisolone acetate.

[49] See, *e.g.,* NDA 017469 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2007/017469s040lbl.pdf.*

[50] See, *e.g.,* NDA 017011 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2018/017011s050lbl.pdf.*

component of FDA-approved drug products (*e.g.,* NDA 022548),[51] and is available in a 1 mL or 2.5 mL solution containing gatifloxacin .5 percent.[52]

1. Suitability of FDA-Approved Drug Product(s)

The nomination does not identify a medical unsuitability in any of the FDA-approved products that contain nepafenac, prednisolone, or gatifloxacin when these products are administered separately. Instead, it states that the single active-ingredient formulation of these products may make them unsuitable for co-administration after ocular surgeries. Specifically, the nomination states that ''[a]s a solution, fixed-dosage ophthalmic drug combinations of different pharmacological classes can be efficacious, reduce the side effects of each component and improve patient compliance.'' However, the labeling for the FDA-approved nepafenac products (*e.g.,* NDA 021862 and NDA 203491) specifically warns against the use of nepafenac with topical corticosteroids, which include prednisolone. This is because the use of nepafenac with topical corticosteroids may increase the potential for healing problems. The nomination does not address this warning or provide support for the co-administration of these drug products. We decline to find that the approved drugs are medically unsuitable for some patients because they may be difficult to administer to patients under circumstances that are specifically warned against in the approved labeling.

Because co-administration of these products is the subject of a labeled warning, and therefore an inappropriate basis for a finding of clinical need, we do not evaluate the nomination's claims further. However, to help explain our thinking about this nomination and inform public comment, we address the nomination's statement that there is a clinical need to compound a drug containing multiple active ingredients because it may improve patient compliance relative to prescribing FDA-approved drugs that contain a single active ingredient. The nomination does not state that the approved drugs would be medically unsuitable for some patients for the conditions identified in the nomination, and it does not provide data or evidence to support that proposition. Reducing the number of drugs administered for the purpose of convenience is not ''clinical need''; medical unsuitability of the approved drugs is required. While clinical need does not have to be fully established in FDA's analysis of questions 1 and 2, there must be a basis to conclude that such a need may exist before FDA will proceed to the more searching analysis conducted under the balancing test. No such basis is present here.[53]

Accordingly, with respect to the nepafenac drug products proposed to be compounded by the nominator, FDA finds no basis to conclude that there is an attribute of each of the approved drug products that makes each one medically unsuitable to treat certain patients who undergo cataract surgery. There is therefore no attribute of the approved drug products that the proposed compounded drug products are intended to address.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

Because the nominator has not identified a population for whom the approved products are medically unsuitable for the proposed uses under question 1, we are not considering whether there is a basis to conclude that the drug product proposed to be compounded must be produced from a bulk drug substance rather than from an FDA-approved drug product under question 2.

3. Additional Comments

Finally, if this nomination for nepafenac were to proceed to the balancing test, there would be some significant safety and effectiveness concerns to evaluate, which are not addressed in the nomination. Each of the three proposed ingredients intended to be compounded into a single drug product is indicated for different medical conditions and has different FDA-approved dosing regimens: One-time daily for nepafenac,[54] four times daily for prednisolone,[55] and two to eight times daily for gatifloxacin.[56] The duration of treatment for each individual drug also differs, as do the approved indications.

Most of the bulk drug substance nominations FDA has evaluated to date have only proposed to compound drug products containing a single active ingredient. This nomination proposed to compound drug products containing more than one active ingredient. If FDA finalizes its proposal not to include nepafenac on the 503B Bulks List, we intend to remove the substance from Category 1 for purposes of the Interim Policy, which would mean that ophthalmic solutions compounded using the bulk drug substance nepafenac, including the proposed compounded products addressed in this notice, would fall outside the enforcement discretion described in the Interim Policy. We note that FDA's evaluation of nepafenac for inclusion on the 503B Bulks List will not impact FDA's evaluation of any other bulk drug substances for inclusion on the 503B Bulks List, including prednisolone and gatifloxacin, because each bulk drug substance nominated for inclusion on the 503B Bulks List undergoes its own evaluation. Nominations for prednisolone, if they are not withdrawn, remain the subject of future evaluations. Gatifloxacin has not been nominated for inclusion on the 503B Bulks List, and therefore has not been categorized under the Interim Policy; its status under the Interim Policy will not be affected if this proposal is finalized. Finally, if FDA determines there is a clinical need for outsourcing facilities to use bulk drug substances to compound the proposed drug products, we would include each substance or combination of substances, as appropriate, on the 503B Bulks List at the time that final determination is made.

D. Hydroxychloroquine Sulfate

Hydroxychloroquine sulfate was nominated for inclusion on the 503B Bulks List to compound drug products that treat rheumatoid arthritis and juvenile arthritis (also known as juvenile idiopathic arthritis).[57] The proposed route of administration is oral, the proposed dosage forms are a capsule or suspension, and the proposed concentrations are 200–500 mg capsules and 100–200 mg/mL suspension. The nominated bulk drug substance is a component of FDA-approved drug products (*e.g.,* NDA 009768, ANDA

[51] See, *e.g.,* NDA 022548 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/022548s002lbl.pdf.*

[52] See fn. 51, above.

[53] See *supra* note 31.

[54] One drop of NDA 021862 0.1% should be applied to the affected eye three times daily beginning 1 day prior to cataract surgery, continued on the day of surgery and through the first 2 weeks of the postoperative period. One drop of NDA 203491 0.3% should be applied to the affected eye one time daily beginning 1 day prior to cataract surgery, continued on the day of surgery and through the first 2 weeks of the postoperative period. An additional drop should be administered 30 to 120 minutes prior to surgery.

[55] Two drops topically in the eye(s) four times daily.

[56] Day 1: Instill one drop every two hours in the affected eye(s) while awake, up to 8 times on Day 1. Days 2 through 7: instill one drop two to four times daily in the affected eye(s) while awake on Days 2 through 7.

[57] See Docket No. FDA–2015–N–3469, document no. FDA–2015–N–3469–0165.

040104, and ANDA 213342).[58] [59] [60] FDA-approved hydroxychloroquine sulfate is available as 200 mg (equivalent to 155 mg of hydroxychloroquine base), film-coated tablets for oral administration.[61]

1. Suitability of FDA-Approved Drug Product(s)

There is a basis to conclude that an attribute of the approved hydroxychloroquine sulfate tablets for oral administration makes them medically unsuitable for the treatment of some patients with rheumatoid arthritis and juvenile arthritis.[62] The nomination suggests that the approved oral tablets, a solid oral dosage form, are medically unsuitable in pediatric patients who are unable to swallow tablets. We agree that there may be certain patients for whom the approved oral tablets are medically unsuitable and this would depend on a patient's clinical presentation and age, among other considerations. As a general matter, the drug product proposed to be compounded appears to be intended to address the potential unsuitability of a solid oral dosage form because the nominator proposes to compound a suspension of hydroxychloroquine sulfate for oral administration.

The nominator further states that ''pediatric dosing is not standardized but weight-based, making getting the correct dose difficult with tablets.'' We agree that an oral suspension could allow for more flexible dosing when compared to the approved tablets when following weight-based dosing recommendations, and that this also supports the proposition that the approved product may be unsuitable for certain patients.[63]

In addition to the proposed suspension, the nominator also proposes to compound hydroxychloroquine sulfate 200–500 mg capsules for oral administration. The nomination does not explain how the proposed compounded capsule products are intended to address the medical unsuitability of the approved product. Similar to tablets, capsules are less flexible in dosing and would be difficult for patients to take if they are unable to swallow tablets. In addition, the nomination does not identify any data or information as to the need for compounded products with a higher concentration than the approved product.

The nomination also claims that some patients are ''unable to tolerate excipients'' in the approved product, but the nomination does not identify which excipients they are referring to, nor do they provide any data or information supporting how the proposed drug products will address that particular attribute.

2. Whether the Drug Product Must Be Compounded From a Bulk Drug Substance

Because there is a basis to conclude that an attribute of the approved hydroxychloroquine sulfate tablets makes them medically unsuitable for some patients, and the proposed compounded oral suspension is intended to address that attribute, FDA next considers whether there is a basis to conclude that the proposed oral suspension must be made from a bulk drug substance rather than from an FDA-approved product. The approved hydroxychloroquine sulfate drug products are 200 mg immediate release tablets with film coating.[64] Although the approved products are film-coated, the coating is not intended to change/control the release profile. FDA is not aware of issues with using the FDA-approved product as the starting material when the compounding process and equipment are appropriately selected. We also note that there is a draft USP monograph for the compounded suspension that uses an FDA-approved film-coated tablet as the starting material (Ref. 8).[65] As with all suspensions, the particle size of the powder should be carefully controlled and the density of suspension vehicle should be selected appropriately in order to make the oral suspension uniform and stable, which can affect the dose administrated to the patients.

Because we do not find a basis to conclude that a bulk drug substance is needed to compound the proposed compounded hydroxychloroquine sulfate oral suspension, rather than starting with the FDA approved product, we do not find a need to include hydroxychloroquine sulfate on the 503B Bulks List under question 2.

V. Conclusion

For the reasons stated above, we tentatively conclude that there is a clinical need for outsourcing facilities to compound drug products using the bulk drug substance quinacrine for oral use, and we therefore propose to include it on the 503B Bulks List as described in this notice.

At this time, we find no basis to conclude that there is a clinical need for outsourcing facilities to compound drug products using the bulk drug substances bromfenac sodium, mitomycin-C, nepafenac, and hydroxychloroquine sulfate. We therefore propose not to include these bulk drug substances on the 503B Bulks List.

VI. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. FDA

[58] See, *e.g.,* NDA 009768 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2017/009768s037s045s047lbl.pdf.*

[59] See, *e.g.,* ANDA 040104 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/a594d892-e496–38f5-e053–2a95a90a9da8/a594d892-e496–38f5-e053–2a95a90a9da8.xml.*

[60] See, *e.g.,* ANDA 213342 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/spl/data/f6b15217-3b65-4d0e-8546-5056d71d525e/f6b15217-3b65-4d0e-8546-5056d71d525e.xml.*

[61] See, *e.g.,* NDA 009768 labeling available as of the date of this notice at *https://www.accessdata.fda.gov/drugsatfda_docs/label/2017/009768s037s045s047lbl.pdf.*

[62] In noting this issue, we do not mean to suggest or imply that the approved drug products, or products prepared from them, are approved for all of the uses proposed by the nomination. For the question 1 analysis we asked a limited, threshold question to determine whether there might be a clinical need for a compounded drug product, by asking what attributes of the approved drug the proposed compounded drug would change, and why. Because this nomination did not pass through question 2, we did not reach the balancing test and therefore did not consider the four factors, including the available evidence of effectiveness or lack of effectiveness of a drug product compounded with hydroxychloroquine sulfate. The safety and efficacy of chronic use of hydroxychloroquine sulfate have not been established for juvenile idiopathic arthritis.

[63] We note that the nominator's proposed concentration of 100–200 mg/mL would offer little benefit in the younger aged pediatric population because a suspension at this strength would likely require administration of small volumes (*e.g.,* ≤1 mL). We are aware of several published pharmacy compounding formulations for hydroxychloroquine sulfate 25 mg/mL suspensions (Refs. 6–8), which may be more suitable for the younger pediatric population.

[64] The tablet is not scored. The approved product labeling states that the ''film-coated tablets cannot be divided, therefore they should not be used to treat patients who weigh less than 31 kg.''

[65] We note that the product labeling for hydroxychloroquine sulfate film-coated tablets (*e.g.,* NDA 009768, ANDA 213342) states, ''Do not crush or divide hydroxychloroquine sulfate film-coated tablets.'' However, this does not change our view that the product can be compounded starting with the approved drug product.

has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

*1. FDA, Guidance for Industry, ''Interim Policy on Compounding Using Bulk Drug Substances Under Section 503B of the Federal Food, Drug, and Cosmetic Act,'' January 2017 (available at *https://www.fda.gov/media/94402/download*).
*2. FDA, Guidance for Industry, ''Evaluation of Bulk Drug Substances Nominated for Use in Compounding Under Section 503B of the Federal Food, Drug, and Cosmetic Act,'' March 2019 (available at *https://www.fda.gov/media/121315/download*).
*3. FDA Memorandum to File, ''Clinical Need for Quinacrine Hydrochloride in Compounding Under Section 503B of the FD&C Act,'' January 2021.
4. Colombo, R., L. Rocchini, N. Suardi, F. Benigni, et al., 2012, ''Neoadjuvant Short-Term Intensive Intravesical Mitomycin C Regimen Compared with Weekly Schedule For Low-Grade Recurrent Non-Muscle-Invasive Bladder Cancer: Preliminary Results of a Randomised Phase 2 Study,'' *European Urology,* 62: 797–802.
5. Au, J. L., R. A. Badalament, M. G. Wientjes, D. C. Young, et al., and International Mitomycin-C Consortium, 2001. ''Methods to Improve Efficacy of Intravesical Mitomycin C: Results of a Randomized Phase III Trial,'' *Journal of the National Cancer Institute,* 93: 597–604.
6. McHenry, A. R., M. F. Wempe, and P. J. Rice, 2017, ''Stability of Extemporaneously Prepared Hydroxychloroquine Sulfate 25-mg/mL Suspensions in Plastic Bottles and Syringes,'' *International Journal of Pharmaceutical Compounding,* 21(3), 251–254 (APA). Retrieved from *https://ijpc.com/Abstracts/Abstract.cfm?ABS=4322*.
7. American Society of Hospital Pharmacists (ASHP 2020), '' Hydroxychloroquine Sulfate Suspension 25 mg/mL.'' Retrieved from *www.ashp.org*.
8. USP 2020, ''USP Draft Compounded Preparation Monograph for Hydroxychloroquine Sulfate Compounded Oral Suspension.'' Published for public comment in Pharmacopeial Forum 46(2). Retrieved from *https://go.usp.org/l/323321/2020-04-08/33wcg6*.

Dated: March 19, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–06060 Filed 3–23–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0279]

Determination That Folic Acid, Oral Tablets, 1 Milligram, and Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993–0002, 301–796–8363, *Stacy.Kane@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table are no longer being marketed.

Application No.	Drug name	Active ingredient(s)	Strength(s)	Dosage form/route	Applicant
NDA 006135	Folic Acid	Folic Acid	1 milligram (mg)	Tablet; Oral	Eli Lilly & Co.
NDA 016131	CLOMID	Clomiphene Citrate	50 mg	Tablet; Oral	Sanofi-Aventis U.S. LLC.
NDA 016419	Propranolol Hydrochloride.	Propanolol Hydrochloride.	1 mg/milliliter (mL)	Injectable; Injection	Baxter Healthcare Corp.
NDA 017473	ORAP	Pimozide	1 mg; 2 mg	Tablet; Oral	Teva Pharms., USA, Inc.
NDA 019916	Morphine Sulfate	Morphine Sulfate	1 mg/mL; 5 mg/mL	Injectable; Injection	ICU Medical, Inc.
NDA 019967	ULTRAVATE	Halobetasol Propionate	0.05%	Cream; Topical	Sun Pharmaceutical Industries, Inc.
NDA 020647	ELDEPRYL	Selegiline Hydrochloride.	5 mg	Capsule; Oral	Somerset Pharms., Inc.
NDA 020925	TAVIST–1	Clemastine Fumarate	1.34 mg	Tablet; Oral	GlaxoSmithKline Consumer Healthcare.

Application No.	Drug name	Active ingredient(s)	Strength(s)	Dosage form/route	Applicant
NDA 021015 ...	ANDROGEL	Testosterone	12.5 mg/1.25 g Actuation.	Gel, Metered; Transdermal.	AbbVie Inc.
NDA 021204 ...	STARLIX	Nateglinide	60 mg; 120 mg	Tablets; Oral	Novartis Pharms., Corp.
NDA 021217 ...	EXALGO	Hydromorphone Hydrochloride.	8 mg; 12 mg; 16 mg; 32 mg.	Tablet, Extended-Release; Oral.	Specgx, LLC.
NDA 021365 ...	LEXAPRO	Escitalopram Oxalate ..	Equal to (EQ) 5 mg Base/5 mL.	Solution; Oral	Allergan Sales, LLC.
NDA 021490 ...	FEMCON FE	Ethinyl Estradiol; Norethindrone.	0.035 mg; 0.4 mg	Tablet, Chewable; Oral	Allergan Pharms., International, Ltd.
NDA 021860 ...	SARAFEM	Fluoxetine Hydrochloride.	EQ 15 mg Base	Tablet; Oral	Allergan Pharms. International, Ltd.
NDA 021870 ...	Fludeoxyglucose F–18	Fludeoxyglucose F–18	20–200 Millicurie/mL ...	Injectable; Intravenous	Feinstein Institute Medical Research.
NDA 022442 ...	REZIRA	Hydrocodone Bitartrate; Pseudoephedrine Hydrochloride.	5 mg/5 mL; 60 mg/5 mL.	Solution; Oral	Persion Pharms., LLC.
NDA 050757 ...	PREVPAC	Amoxicillin; Clarithromycin; Lansoprazole.	500 mg; 500 mg; 30 mg.	Capsule, Tablet, Capsule; Oral.	Takeda Pharms. USA, Inc.
NDA 203195 ...	SUPRAX	Cefixime	400 mg	Capsule; Oral	Lupin, Ltd.
NDA 207931 ...	TECHNIVIE	Ombitasvir; Paritaprevir; Ritonavir.	12.5 mg; 75 mg; 50 mg	Tablet; Oral	AbbVie Inc.
NDA 208624 ...	VIEKIRA XR	Dasabuvir Sodium; Ombitasvir; Paritaprevir; Ritonavir.	EQ 200 mg Base; 8.33 mg; 50 mg; 33.33 mg.	Tablet, Extended Release; Oral.	AbbVie Inc.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs listed are unaffected by the discontinued marketing of the products subject to those NDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: March 19, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–06059 Filed 3–23–21; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6644]

Fiscal Year 2021 Generic Drug Science and Research Initiatives Workshop; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''FY 2021 Generic Drug Science and Research Initiatives Workshop.'' The purpose of the public workshop is to provide an overview of the status of science and research initiatives for generic drugs and an opportunity for public input on these initiatives. FDA is seeking this input from a variety of stakeholders—industry, academia, patient advocates, professional societies, and other interested parties—as it fulfills its commitment under the Generic Drug User Fee Amendments of 2017 (GDUFA II) to develop an annual list of science and research initiatives specific to generic drugs. FDA will take the information it obtains from the public workshop into account in developing its Fiscal Year (FY) 2022 GDUFA science and research initiatives.

DATES: The public workshop will be held on June 23, 2021, from 8:30 a.m. to 4:30 p.m. Eastern Time. Submit either electronic or written comments on this public workshop by July 23, 2021. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held virtually.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 23, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 23, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6644 for ''FY 2021 Generic Drug Science and Research Initiatives Workshop; Public Workshop; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Sam Raney, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4706, Silver Spring, MD 20993, 240–402–7967, *Sameersingh.Raney@fda.hhs.gov;* or Robert Lionberger, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4722, Silver Spring, MD 20993, 240–402–7957, *Robert.Lionberger@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2012, Congress passed the Generic Drug User Fee Amendments of 2012 (GDUFA I) (Pub. L. 112–144). GDUFA I was designed to enhance public access to safe, high-quality generic drugs and to modernize the generic drug program. To support this goal, FDA agreed in the GDUFA I commitment letter to work with industry and interested stakeholders on identifying science and research initiatives specific to generic drugs for each fiscal year covered by GDUFA I.

In August 2017, GDUFA I was reauthorized until September 2022 through the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Pub. L. 115–52). In the GDUFA II commitment letter,[1] FDA agreed to conduct annual public workshops ''to solicit input from industry and stakeholders for inclusion in an annual list of GDUFA II [r]egulatory [s]cience initiatives.'' The public workshop scheduled for June 23, 2021, seeks to fulfill this agreement.

II. Topics for Discussion at the Public Workshop

The purpose of the public workshop is to obtain input from industry and other interested stakeholders on the identification of generic drug science and research initiatives for FY 2022.

FDA is particularly interested in receiving input in the following five topic areas:

1. What research is needed to determine how formulation differences in generic injectable products (that are not qualitatively (Q1) and quantitatively (Q2) the same as their reference listed drug products) affect the substitutability of these products?

2. What research is needed to prepare for generic versions of oligonucleotide drug products (*e.g.,* siRNA, chemically modified, antisense oligonucleotides)?

3. What research relating to artificial intelligence (including machine learning) and/or the use of integrated data from multiple areas may facilitate and modernize the development of generic products?

4. What research is needed to bridge the gap between existing scientific insights from GDUFA-funded research (*e.g.,* related to product characterization techniques or modeling and simulation tools) and the development of suitable test procedures, study designs, model integrated evidence, and/or approaches for developing generic products?

5. What research is needed to support identification of best bioequivalence practices and convergence of global bioequivalence standards?

Specific presentations and discussions at this workshop will be announced at a later date and may differ from the topics above, however, input in the above topic areas will help the Agency identify and expand our scientific focus for the next fiscal year.

FDA will consider all comments made at this workshop or received through the docket (see **ADDRESSES**) as it develops its FY 2022 science and research initiatives. Information concerning the science and research initiatives for generic drugs can be found at *https://www.fda.gov/gdufaregscience.*

III. Participating in the Public Workshop

Registration: Registration is free. Persons interested in attending this public workshop must register online at *https://www.fda.gov/drugs/news-events-human-drugs/fy-2021-generic-drug-science-and-research-initiatives-public-*

[1] The GDUFA II commitment letter is available at *https://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM525234.pdf.*

workshop-06232021-06232021. Registration may be performed at any time before or during the workshop.

Requests for Oral Presentations: During online registration you may indicate if you wish to present your public comments. Public comment presentation requests must be submitted by 11:59 p.m. Eastern Time at the end of April 30, 2021. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the workshop. Following the close of registration on April 30, 2021, at 11:59 p.m. Eastern Time, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin; we will select and notify participants by May 21, 2021. All requests to make oral presentations must be received by the close of registration on April 30, 2021. If selected for presentation, any presentation materials must be emailed to *GDUFARegulatoryScience@fda.hhs.gov* no later than June 18, 2021, 11:59 p.m. Eastern Time. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will be webcast. Please register online (as described above) to attend the workshop remotely. Unless scheduled to participate in advance, attendees will not be able to speak or make presentations during the public comment period or during any other session of the workshop. To join the workshop via the webcast, please go to *https://www.fda.gov/drugs/news-events-human-drugs/fy-2021-generic-drug-science-and-research-initiatives-public-workshop-06232021-06232021.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: As soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov* or at *https://www.fda.gov/gdufaregscience.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). Closed caption scrolling text will be generated by the Adobe Connect system and displayed in real time. The closed caption scrolling text will also display when streaming the recorded presentations for viewing at a later date.

Dated: March 19, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–06096 Filed 3–23–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1862]

The Drug Supply Chain Security Act Pilot Project Program and Enhanced Drug Distribution Security; Public Meeting; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is reopening the comment period for the notice entitled ''The Drug Supply Chain Security Act Pilot Project Program and Enhanced Drug Distribution Security; Public Meeting; Request for Comments'' that appeared in the **Federal Register** of October 28, 2020. The Agency is taking this action to allow interested persons additional time to submit comments.

DATES: FDA is reopening the comment period for the notice published on October 28, 2020 (85 FR 68342). Submit either electronic or written comments by June 22, 2021 to ensure that the Agency considers your comment.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 22, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 22, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–N–1862 for ''The Drug Supply Chain Security Act Pilot Project Program and Enhanced Drug Distribution Security; Public Meeting; Reopening of Comment Period.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The

Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Kristle Green, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–3130, *CDERODSIRPublicMeetings@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 28, 2020 (85 FR 68342), FDA published a notice with a 60-day comment period to announce and request comments on a virtual public meeting entitled ''The Drug Supply Chain Security Act Pilot Project Program and Enhanced Drug Distribution Security'' held on December 8 and 9, 2020. FDA is reopening the comment period until June 22, 2021.

The Agency believes that an additional 90 days will allow adequate time for interested persons to submit comments. Materials from the public meeting are on FDA's website at *https://www.fda.gov/drugs/news-events-human-drugs/drug-supply-chain-security-act-pilot-project-program-and-enhanced-drug-distribution-security.*

Dated: March 19, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–06053 Filed 3–23–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2018–M–3841, FDA–2018–M–3842, FDA–2018–M–3983, FDA–2018–M–4033, FDA–2018–M–4205, FDA–2018–M–4580, FDA–2018–M–4582, FDA–2018–M–4665, FDA–2018–M–4777, FDA–2018–M–4778, FDA–2018–M–4779, FDA–2018–M–4780, FDA–2018–M–4916, FDA–2019–M–0027, FDA–2019–M–0028, FDA–2019–M–0505, FDA–2019–M–0645, FDA–2019–M–0802, FDA–2019–M–0885, FDA–2019–M–0995, FDA–2019–M–1214, FDA–2019–M–1251, FDA–2019–M–1310, FDA–2019–M–1313, FDA–2019–M–1465, FDA–2019–M–1506, FDA–2019–M–1582, FDA–2019–M–1763, FDA–2019–M–1848, FDA–2019–M–1979, FDA–2019–M–1998, FDA–2019–M–2052, FDA–2019–M–2193, FDA–2019–M–2408, FDA–M–2522, FDA–2019–M–2560, FDA–2019–M–2561, FDA–2019–M–2671, FDA–2019–M–2732, FDA–2019–M–2753, FDA–2019–M–2782, FDA–2019–M–3309, FDA–2019–M–3513, FDA–2019–M–3652, FDA–2019–M–3845, FDA–2019–M–3863, FDA–2019–M–3844, FDA–2019–M–4007, FDA–2019–M–4153, FDA–2019–M–4186, FDA–2019–M–4238, FDA–2019–M–4928, FDA–2019–M–4978, FDA–2019–M–5393, FDA–2019–M–5438, FDA–2019–M–5534, FDA–2019–M–5605, FDA–2019–M–5683, FDA–2019–M–5741, FDA–2019–M–5857, FDA–2019–M–5961, FDA–2020–M–0097, FDA–2020–M–0107, FDA–2020–M–0108, FDA–2020–M–0495, FDA–2020–M–0985, FDA–2020–M–0984, FDA–2020–M–0986, FDA–2020–M–1083, FDA–2020–M–1115, FDA–2020–M–1116, FDA–2020–M–1175, FDA–2020–M–1213, FDA–2020–M–1214, FDA–2020–M–1267, FDA–2020–M–1286, FDA–2020–M–1290, FDA–2020–M–1299, FDA–2020–M–1300, FDA–2020–M–1311, FDA–2020–M–1358, FDA–2020–M–1367, FDA–2020–M–1410, FDA–2020–M–1420, FDA–2020–M–1527, FDA–2020–M–1583, FDA–2020–M–1600, FDA–2020–M–1612, FDA–2020–M–1613, FDA–2020–M–1715, FDA–2020–M–1724, FDA–2020–M–1726, FDA–2020–M–1748, FDA–2020–M–1752, FDA–2020–M–1760, FDA–2020–M–1821, FDA–2020–M–1783, FDA–2020–M–1822, FDA–2020–M–1828, FDA–2020–M–1830, FDA–2020–M–1829, FDA–2020–M–1835, FDA–2020–M–1838, FDA–2020–M–1868, FDA–2020–M–1986, FDA–2020–M–2021, FDA–2020–M–2288, FDA–2020–M–2248, and FDA–2020–M–2339]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is publishing a list of premarket approval applications (PMAs) that have been approved from October 1, 2018, through December 31, 2020. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the internet and the Agency's Dockets Management Staff.

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 Nos. FDA–2018–M–3841, FDA–2018–M–3842, FDA–2018–M–3983, FDA–2018–M–4033, FDA–2018–M–4205, FDA–2018–M–4580, FDA–2018–M–4582, FDA–

2018–M–4665, FDA–2018–M–4777, FDA–2018–M–4778, FDA–2018–M–4779, FDA–2018–M–4780, FDA–2018–M–4916, FDA–2019–M–0027, FDA–2019–M–0028, FDA–2019–M–0505, FDA–2019–M–0645, FDA–2019–M–0802, FDA–2019–M–0885, FDA–2019–M–0995, FDA–2019–M–1214, FDA–2019–M–1251, FDA–2019–M–1310, FDA–2019–M–1313, FDA–2019–M–1465, FDA–2019–M–1506, FDA–2019–M–1582, FDA–2019–M–1763, FDA–2019–M–1848, FDA–2019–M–1979, FDA–2019–M–1998, FDA–2019–M–2052, FDA–2019–M–2193, FDA–2019–M–2408, FDA–2019–M–2522, FDA–2019–M–2560, FDA–2019–M–2561, FDA–2019–M–2671, FDA–2019–M–2732, FDA–2019–M–2753, FDA–2019–M–2782, FDA–2019–M–3309, FDA–2019–M–3513, FDA–2019–M–3652, FDA–M–3845, FDA–2019–M–3862, FDA–2019–M–3863, FDA–2019–M–3844, FDA–2019–M–4007, FDA–2019–M–4153, FDA–2019–M–4186, FDA–2019–M–4238, FDA–2019–M–4928, FDA–2019–M–4978, FDA–2019–M–5393, FDA–2019–M–5438, FDA–2019–M–5534, FDA–2019–M–5605, FDA–2019–M–5683, FDA–2019–M–5741, FDA–2019–M–5857, FDA–2019–M–5961, FDA–2020–M–0097, FDA–2020–M–0107, FDA–2020–M–0108, FDA–2020–M–0495, FDA–2020–M–0985, FDA–2020–M–0984, FDA–2020–M–0986, FDA–2020–M–1083, FDA–2020–M–1115, FDA–2020–M–1116, FDA–2020–M–1175, FDA–2020–M–1213, FDA–2020–M–1214, FDA–2020–M–1267, FDA–2020–M–1286, FDA–2020–M–1290, FDA–2020–M–1299, FDA–2020–M–1300, FDA–2020–M–1311, FDA–2020–M–1358, FDA–2020–M–1367, FDA–2020–M–1410, FDA–2020–M–1420, FDA–2020–M–1527, FDA–2020–M–1583, FDA–2020–M–1600, FDA–2020–M–1612, FDA–2020–M–1613, FDA–2020–M–1715, FDA–2020–M–1724, FDA–2020–M–1726, FDA–2020–M–1748, FDA–2020–M–1752, FDA–2020–M–1760, FDA–2020–M–1821, FDA–2020–M–1783, FDA–2020–M–1822, FDA–2020–M–1828, FDA–2020–M–1830, FDA–2020–M–1829, FDA–2020–M–1835, FDA–2020–M–1838, FDA–2020–M–1868, FDA–2020–M–1986, FDA–2020–M–2021, FDA–2020–M–2288, FDA–2020–M–2248, and FDA–2020–M–2339 for ''Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications.'' 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: Dharmesh Patel, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2434, Silver Spring, MD 20993–0002, 301–796–3289.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the FD&C Act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is published in the **Federal Register**. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a list of available safety and effectiveness summaries of PMA approvals and denials that were announced. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the internet from October 1, 2018, through December 31, 2020. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS AND SAFETY AND PROBABLE BENEFIT SUMMARIES FOR APPROVED HDES MADE AVAILABLE FROM OCTOBER 1, 2018, THROUGH DECEMBER 31, 2020

PMA No., Docket No.	Applicant	Trade name	Approval date
P180003, FDA–2018–M–3841	Veryan Medical Ltd	BioMimics 3D Vascular Stent System	10/4/2018
P150040/S003, FDA–2018–M–3842.	Carl Zeiss Meditec, Inc	VisuMax Femtosecond Laser	10/4/2018
P160054/S008, FDA–2018–M–3983.	Thoratec Corp	HeartMate 3 Left Ventricular Assist System	10/18/2018
P100040/S036, FDA–2018–M–4033.	Medtronic Vascular	Valiant Navion™ Thoracic Stent Graft System	10/19/2018
P180010, FDA–2018–M–4205	W.L. Gore & Associates, Inc	GORE Carotid Stent	11/1/2018
P150002, FDA–2018–M–4580	Cordis Corp	Cordis INCRAFT® AAA Stent Graft System	11/27/2018

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS AND SAFETY AND PROBABLE BENEFIT SUMMARIES FOR APPROVED HDES MADE AVAILABLE FROM OCTOBER 1, 2018, THROUGH DECEMBER 31, 2020—Continued

PMA No., Docket No.	Applicant	Trade name	Approval date
P120016/S024, FDA–2018–M–4582.	Cardiva Medical, Inc	VASCADE® MVP Venous Vascular Closure System	11/27/2018
P180007, FDA–2018–M–4665	Spiration, Inc	Spiration® Valve System	12/3/2018
P160034, FDA–2018–M–4672	Cardiac Science Corp	Powerheart® G3 Pro AED	12/6/2018
P160033, FDA–2018–M–4675	Cardiac Science Corp	Powerheart® G5 AED, Powerheart® AED G3 Plus, And Powerheart® AED G3.	12/7/2018
P160043/S012, FDA–2018–M–4777.	Medtronic Vascular	Resolute Onyx™ Zotarolimus-Eluting Coronary Stent System.	12/14/2018
P110013/S088, FDA–2018–M–4778.	Medtronic Vascular	Resolute Integrity Zotarolimus-Eluting Coronary Stent System.	12/14/2018
P100018/S015, FDA–2018–M–4779.	Micro Therapeutics, Inc. d/b/a ev3 Neurovascular.	Pipeline™ Flex Embolization Device	12/14/2018
P150038/S006, FDA–2018–M–4780.	InSightec, Inc	Exablate Model 4000 Types 1.0 and 1.1 System (Exablate Neuro).	12/16/2018
P170018, FDA–2018–M–4916	Physio-Control, Inc	LIFEPAK® CR2 Defibrillator	12/21/2018
P170032, FDA–2019–M–0027	Sequent Medical, Inc	Woven EndoBridge (WEB) Aneurysm Embolization System	12/31/2018
P180001, FDA–2019–M–0028	William Cook Europe ApS	Zenith® Dissection Endovascular System	12/31/2018
P170037, FDA–2019–M–0505	OPKO Diagnostics, LLC	Sangia Total PSA Test	1/30/2019
P180025, FDA–19M–2526	Essential Medical, Inc	MANTA™ Vascular Closure Device	2/1/2019
P170036, FDA–2019–M–0645	Spinal Kinetics LLC	M6–C™ Artificial Cervical Disc	2/6/2019
P160050, FDA–2019–M–0802	Intrinsic Therapeutics	Barricaid® Anular Closure Device (ACD)	2/8/2019
P170030, FDA–2019–M–0885	Biotronik, Inc	Orsiro Sirolimus Eluting Coronary Stent System (Orsiro Stent System).	2/22/2019
P170042/S002, FDA–2019–M–0995.	C.R. Bard, Inc	COVERA™ Vascular Covered Stent	3/1/2019
P160002/S009, FDA–2019–M–1310.	Ventana Medical System, Inc	VENTANA PD–L1 (SP142) Assay	3/8/2019
P180037, FDA–2019–M–1214	Bard Peripheral Vascular, Inc. (BPV).	VENOVO Venous Stent System	3/13/2019
P100009/S028, FDA–2019–M–1251.	Abbott Vascular, Inc	MitraClip NT Clip Delivery System; MitraClip NTR/XTR Clip Delivery System.	3/14/2019
P180036, FDA–2019–M–1313	Impulse Dynamics (USA), Inc	OPTIMIZER Smart System	3/21/2019
P180040, FDA–2019–M–1465	Fidia Pharma USA, Inc	TRILURON™	3/26/2019
P180032, FDA–2019–M–1506	Channel Medsystems, Inc	Cerene® Cryotherapy Device	3/28/2019
P170027, FDA–2019–M–1582	TherOx, Inc	TherOx DownStream System	4/2/2019
P180034, FDA–2019–M–1763	Intact Vascular, Inc	Tack Endovascular System® (6F)	4/11/2019
P180043, FDA–2019–M–1979	QIAGEN Manchester Ltd	*therascreen*® FGFR RGQ RT–PCR Kit	4/12/2019
P180024, FDA–2019–M–1848	BAROnova, Inc	TransPyloric Shuttle/TransPyloric Shuttle Delivery Device	4/16/2019
P180029, FDA–2019–M–1998	Boston Scientific Corp	LOTUS Edge™ Valve System	4/23/2019
P180014, FDA–2019–M–2052	XVIVO Perfusion, Inc	XVIVO Perfusion System (XPS™) with STEEN Solution™ Perfusate.	4/26/2019
P180013, FDA–2019–M–2193	Boston Scientific Corp	VICI VENOUS STENT® System	5/2/2019
P180031, FDA–2019–M–2408	Stryker Neurovascular	Neuroform Atlas® Stent System	5/16/2019
H180002, FDA–2019–M–2522	Novocure, Ltd	NovoTTF™-100L System	5/23/2019
P190001, FDA–2019–M–2560	QIAGEN GmbH	*therascreen* PIK3CA RGQ PCR Kit	5/24/2019
P190004, FDA–2019–M–2561	QIAGEN GmbH	*therascreen* PIK3CA RGQ PCR Kit	5/24/2019
P160013/S002, FDA–2019–M–2671.	TransMedics, Inc	Organ Care System (OCS™) Lung System	5/31/2019
P160036, FDA–2019–M–2732	DT MedTech, LLC	Hintermann Series H3™ Total Ankle Replacement System	6/4/2019
P160048/S006, FDA–2019–M–2753.	Senseonics, Inc	Eversense Continuous Glucose Monitoring System	6/6/2019
P160029, FDA–2019–M–2782	Philips Medical Systems, Inc	HeartStart OnSite Defibrillator (Model M5066A), HeartStart Home Defibrillator (Model M5068A), Primary Battery (Model M5070A), SMART Pads Cartridges (Adult Model M5071A) and Infant/Child (Model M5072A).	6/6/2019
P150013/S014, FDA–2019–M–3309.	Dako North America, Inc	PD–L1 IHC 22C3 pharmDx	6/10/2019
P000025/S104, FDA–2019–M–3513.	MED–EL Corp	MED–EL Cochlear Implant System	7/19/2019
P150013/S016, FDA–2019–M–3652.	Dako North America, Inc	PD–L1 1HC 22C3 pharmDx	7/30/2019
P140031/S085, FDA–2019–M–3845.	Edwards Lifesciences LLC	Edwards SAPIEN 3 Transcatheter Heart Valve System and Edwards SAPIEN 3 Ultra Transcatheter Heart Valve System.	8/16/2019
H190005, FDA–2019–M–3863	Zimmer Biomet Spine, Inc	The Tether™—Vertebral Body Tethering System	8/16/2019
P180050, FDA–2019–M–3862	CVRx, Inc	BAROSTIM NEO® System	8/16/2019
P130021/S058, FDA–2019–M–3844.	Medtronic CoreValve LLC	Medtronic CoreValve Evolut R System and Medtronic CoreValve Evolut PRO System.	8/16/2019
H170001, FDA–2019–M–4007	ApiFix, Ltd	Minimally Invasive Deformity Correction (MID–C) System	8/23/19

TABLE 1—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS AND SAFETY AND PROBABLE BENEFIT SUMMARIES FOR APPROVED HDES MADE AVAILABLE FROM OCTOBER 1, 2018, THROUGH DECEMBER 31, 2020—Continued

PMA No., Docket No.	Applicant	Trade name	Approval date
P040020/S087, FDA–2019–M–4153.	Alcon Laboratories, Inc	AcrySof® IQ PanOptix® Trifocal Intraocular Lens (Model TFNT00) and AcrySof® IQ PanOptix® Toric Trifocal Intraocular Lens (Models TFNT30, TFNT40, TFNT50 and TFNT60).	8/26/2019
P190006, FDA–2019–M–4186	Axonics Modulation Technologies, Inc.	Axonics Sacral Neuromodulation System	9/6/2019
P930016/S057, FDA–2019–M–4238.	AMO Manufacturing USA, LLC.	iDESIGN® Refractive Studio and STAR S4 IR® Excimer Laser Systems.	9/9/2019
P190011, FDA–2019–M–4928	DiaSorin Inc	LIAISON XL MUREX HCV Ab LIAISON XL MUREX Control HCV Ab.	10/18/2019
P190014, FDA–2019–M–4978	Myriad Genetic Laboratories, Inc.	Myriad myChoice® CDx	10/23/2019
P180046, FDA–2019–M–5393	Axonics Modulation Technologies, Inc.	Axonics Sacral Neuromodulation System	11/13/2019
P180035, FDA–2019–M–5438	CooperVision, Inc	MiSight 1 Day (omafilcon A) Soft (Hydrophilic) Contact Lenses for Daily Wear.	11/15/2019
P190008, FDA–2019–M–5534	Medtronic, Inc	IN.PACT™ AV Paclitaxel-coated Percutaneous Transluminal Angioplasty (PTA) Balloon Catheter.	11/21/2019
P190016, FDA–2019–M–5605	Tusker Medical, Inc	Tula® System	11/25/2019
P180047, FDA–2019–M–5683	DiaSorin, Inc	LIAISON QuantiFERON—TB Gold Plus, LIAISON Control QuantiFERON—TB Gold Plus and LIAISON QuantiFERON Software.	11/26/2019
P170019/S006, FDA–2019–M–5741.	Foundation Medicine, Inc	FoundationOne® CDx	12/3/2019
P170038, FDA–2019–M–5857	Abbott	CentriMag Circulatory Support System	12/6/2019
P180027, FDA–2019–M–5961	MicroVention, Inc	Flow Re-Direction Endoluminal Device (FRED®) System	12/16/2019
P140009/S039, FDA–2020–M–0097.	Abbott Medical, Inc	Abbott Infinity™ DBS System	1/2/2020
P180038, FDA–2020–M–0107	DiaSorin, Inc	LIAISON® XL MUREX Anti-HBc, LIAISON® XL MUREX Control Anti-HBc.	1/2/2020
P190018, FDA–2020–M–0108	Alcon Research, Inc	Clareon™ Aspheric Hydrophobic Acrylic Intraocular Lens (IOL) (Model Number: SY60WF); Clareon™ Toric Aspheric Hydrophobic Acrylic Intraocular Lens (IOL) (Model Numbers: CNW0T3, CNW0T4, CNW0T5, CNW0T6, CNW0T7, CNW0T8 and CNW0T9); Clareon™ Aspheric Hydrophobic Acrylic Intraocular Lens (IOL) with the AutonoMe™ Pre-loaded Delivery System (Model Number: CNA0T0); Clareon™ Toric Aspheric Hydrophobic Acrylic Intraocular Lens (IOL) with the AutonoMe™ Pre-loaded Delivery System (Model Numbers: CNA0T3, CNA0T4, CNA0T5, CNA0T6, CNA0T7, CNA0T8 and CNA0T9).	1/7/2020
P170023, FDA–2020–M–0495	Contura International A/S	Bulkamid® Urethral Bulking System	1/28/2020
P170022, FDA–2020–M–0985	ARJ Medical, Inc	PyloPlus UBT System	2/18/2020
P180039, FDA–2020–M–0984	DiaSorin Inc	LIAISON® XL MUREX Anti-HBs; LIAISON® XL MUREX Control Anti-HBs; LIAISON® XL MUREX Anti-HBs Verifiers.	2/21/2020
P930014/S126, FDA–2020–M–0986.	Alcon Laboratories, Inc	AcrySof™ IQ Vivity™ Extended Vision Intraocular Lens (Model DFT015); AcrySof™ IQ Vivity™ Toric Extended Vision IOLs (DFT315, DFT 415, DFT515); AcrySof™ IQ Vivity™ Extended Vision UV Absorbing IOL (DAT015); AcrySof™ IQ Vivity™ Toric Extended Vision UV Absorbing IOLs (DAT315, DAT415, DAT515).	2/26/2020
P190024, FDA–2020–M–1083	Ventana Medical Systems, Inc	CINtec® *PLUS* Cytology	3/10/2020
P120006/S031, FDA–2020–M–1126.	Endologix, Inc	Alto™ Abdominal Stent Graft System	3/13/2020
P980033/S050, FDA–2020–M–1115.	Boston Scientific Corp	VENOUS WALLSTENT	3/17/2020
P970051/S172, FDA–2020–M–1116.	Cochlear Americas	Nucleus 24 Cochlear Implant System	3/17/2020
P190025, FDA–2020–M–1175	Abbott Molecular, Inc	Alinity m HCV	3/23/2020
P140029/S021, FDA–2020–M–1214.	Q-Med AB, a Galderma affiliate.	Restylane® Kysse	3/26/2020
P190028, FDA–2020–M–1213	Roche Molecular Systems, Inc	cobas HPV for use on the cobas 6800/8800 Systems	4/3/2020
P190027, FDA–2020–M–1286	Intact Vascular, Inc	Tack Endovascular System® (4F, 1.5–4.5mm)	4/10/2020
P050010/S020, FDA–2020–M–1267.	Centinel Spine, LLC	prodisc® L Total Disc Replacement	4/10/2020
P130008/S039, FDA–2020–M–1299.	Inspire Medical Systems, Inc	Inspire® Upper Airway Stimulation (UAS)	4/14/2020

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PMA No., Docket No.	Applicant	Trade name	Approval date
P190026, FDA–2020–M–1290	QIAGEN GmbH	therascreen® BRAF V600E RGQ PCR Kit	4/15/2020
P170019/S013, FDA–2020–M–1300.	Foundation Medicine, Inc	FoundationOne® CDx (F1CDx)	4/17/2020
P190015, FDA–2020–M–1311	Bolton Medical Inc	TREO® Abdominal Stent-Graft System	5/4/2020
P170019/S011, FDA–2020–M–1358.	Foundation Medicine, Inc	FoundationOne® CDx (F1CDx)	5/6/2020
P160028, FDA–2020–M–1367	Philips Medical Systems, Inc	HeartStart FR3 Defibrillators Models 861388 (Text) and 861389 (ECG Display), Primary Battery (Models 989803150161, 989803150171), Rechargeable Battery (Model 989803150241), Charger for the Rechargeable Battery (Model 861394), SmartPads III (Models 989803149981, 989803149991), DP pads (Models 989803158211, 989803158221), and Pediatric Key (Model 989803150031).	5/11/2020
P180028, FDA–2020–M–1368	Philips Medical Systems, Inc	HeartStart FRx Defibrillator (861304), Primary Battery (M5070A), Aviation FRx Battery (989803139301), SMART Pads II (989803139261), and Infant/Child Key (989803139311).	5/11/2020
P150025/S013, FDA–2020–M–1410.	Dako North America, Inc	PD–L1 IHC 28–8 pharmDx	5/15/2020
P170019/S015, FDA–2020–M–1420.	Foundation Medicine, Inc	FoundationOne® CDx	5/19/2020
P110033/S047, FDA–2020–M–1527.	Allergan	JUVÉDERM® VOLUMA™ XC	6/12/2020
P190021, FDA–2020–M–1583	Mainstay Medical Ltd	ReActiv8 Implantable Neurostimulation System	6/16/2020
P170019/S016, FDA–2020–M–1612.	Foundation Medicine, Inc	FoundationOne® CDx (F1CDx)	6/16/2020
P200014, FDA–2020–M–1600	Roche Molecular Systems, Inc	cobas® EZH2 Mutation Test	6/18/2020
P100010/S098, FDA–2020–M–1613.	Medtronic, Inc	Arctic Front Advance™ Cardiac Cryoablation Catheter Arctic Front Advance Pro™ Cardiac Cryoablation Catheters Freezor™ *MAX* Cardiac Cryoablation Catheter CryoConsole Manual Retraction Kit.	6/23/2020
P130013/S035, FDA–2020–M–1715.	Boston Scientific Corp	WATCHMAN FLX Left Atrial Appendage Closure Device with Delivery System and WATCHMAN Left Atrial Appendage Closure Device with Delivery System.	7/21/2020
P190031, FDA–2020–M–1724	Ventana Medical Systems, Inc	VENTANA HER2 Dual ISH DNA Probe Cocktail	7/28/2020
P180031/S001, FDA–2020–M–1726.	Stryker Neurovascular	Neuroform Atlas® Stent System	7/30/2020
P200010, FDA–2020–M–1748	Guardant Health, Inc	Guardant360® CDx	8/7/2020
P190007, FDA–2020–M–1752	Cardinal Health	Kendall™ Multi-Function Defibrillation Electrodes, Medi-Trace™ Cadence Multi-Function Defibrillation Electrodes, Physio-Control/Stryker QUIK–COMBO Pacing/Defibrillation/ECG Electrodes.	8/7/2020
P150003/S058, FDA–2020–M–1760.	Boston Scientific Corp	SYNERGY™ Everolimus-Eluting Platinum Chromium Coronary Stent System (Monorail™); SYNERGY™ Everolimus-Eluting Platinum Chromium Coronary Stent System (Over-The-Wire™); SYNERGY™ XD Everolimus-Eluting Platinum Chromium Coronary Stent System (Monorail™).	8/10/2020
P190032, FDA–2020–M–1821	Foundation Medicine, Inc	FoundationOne Liquid CDx	8/26/2020
P180048, FDA–2020–M–1783	Diasorin, Inc	LIAISON® XL MUREX HBeAg, LIAISON® XL MUREX Control HBeAg.	8/29/2020
P180049, FDA–2020–M–1822	Diasorin, Inc	LIAISON® XL MUREX anti-HBe, LIAISON® XL MUREX Control Anti-HBe.	8/29/2020
P180045, FDA–2020–M–1828	Diasorin, Inc	LIAISON® XL MUREX HBc IgM, LIAISON® XL MUREX Control HBc IgM.	8/29/2020
P200013, FDA–2020–M–1830	Abbott Molecular, Inc	Alinity m HBV	8/29/2020
P190017, FDA–2020–M–1829	Diasorin, Inc	LIAISON® XL MUREX HBsAg Qual; LIAISON® MUREX Control HBsAg Qual; LIAISON® XL MUREX HBsAg Confirmatory Test.	8/29/2020
P200015, FDA–2020–M–1835	Edwards Lifesciences, LLC	Edwards SAPIEN 3 Transcatheter Heart Valve System with Edwards Commander Delivery System.	8/31/2020
P160017/S076, FDA–2020–M–1838.	Medtronic Minimed, Inc	MiniMed 770G System	8/31/2020
P140031/S112, FDA–2020–M–1868.	Edwards Lifesciences, LLC	Edwards SAPIEN 3 and SAPIEN 3 Ultra Transcatheter Heart Valve System.	9/9/2020
P200022, FDA–2020–M–1986	Simplify Medical, Inc	Simplify® Cervical Artificial Disc	9/18/2020
P160042/S010, FDA–2020–M–2021.	Prollenium Medical Technologies, Inc.	Revanesse® Lips+	9/21/2020

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PMA No., Docket No.	Applicant	Trade name	Approval date
H190001, FDA–2020–M–2248	HDL Therapeutics, Inc	Plasma Delipidation System (PDS–2™ System)	12/1/2020
P190030, FDA–2020–M–2288	Theragen, Inc	ActaStim-S Spine Fusion Stimulator	12/9/20
P200030, FDA–2020–M–2339	W. L. Gore and Associates, Inc.	GORE® EXCLUDER® Conformable AAA Endoprosthesis (EXCC).	12/22/20

II. Electronic Access

Persons with access to the internet may obtain the documents at *https://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/DeviceApprovalsandClearances/PMAApprovals/default.htm.*

Dated: March 15, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–06052 Filed 3–23–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the NIH Clinical Center Research Hospital Board.

The meeting will be held as a virtual meeting and open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast *https://videocast.nih.gov/* and the CCRHB website *https://ccrhb.od.nih.gov/meetings.html.*

Name of Committee: NIH Clinical Center Research Hospital Board.

Date: April 23, 2021.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: Clinical Center CEO Update, Patient Safety and Clinical Quality Update, other business of the Board.

Place: National Institutes of Health, Building 1, 9000 Rockville Pike, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gretchen Wood, Staff Assistant, National Institutes of Health, Office of the Director, One Center Drive, Building 1, Room 126, Bethesda, MD 20892, 301–496–4272, *woodgs@od.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: March 18, 2021.

Patricia B. Hansberger,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06021 Filed 3–23–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council, May 12, 2021, 10:00 a.m. to May 13, 2021, 01:45 p.m., National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD, 20892 which was published in the **Federal Register** on December 28, 2020, 85 FR 84358.

This notice is being amended to change the meeting time from 10:00 a.m.–1:15 p.m. on May 12, 2021 to 10:00 a.m.–3:00 p.m. on May 12, 2021. The meeting is to the public.

Dated: March 18, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06020 Filed 3–23–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Docket ID: FEMA–2020–0036; OMB No. 1660–0105]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Household Survey on Disaster Preparedness

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of revision and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the charge to FEMA and the Department of Homeland Security (DHS) to meet FEMA strategic priorities, and FEMA's program management to improve the public's knowledge and actions for preparedness and resilience. Information from this collection will be used to track changes in knowledge, attitudes, and behaviors related to preparedness in the general public. The Individual and Community Preparedness Division analyzes and uses data collected in FEMA Form 008–0–15, National Disaster Preparedness Survey to identify progress and gaps in individual and community preparedness to better understand the motivators and barriers to preparedness in general and about specific hazards. The survey measures the public's knowledge, attitudes, and behaviors relative to preparing for a wide range of hazards.

DATES: Comments must be submitted on or before April 23, 2021.

ADDRESSES: Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov,* or Joseph Faulk, Preparedness Data Lead, Individual and Community Preparedness Division, *joseph.faulk@fema.dhs.gov,* 202–212–7723.

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on Thursday, November 5, 2020, at 85 FR 70645 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: National Household Survey on Disaster Preparedness.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0105.

Form Titles and Numbers: FEMA Form 008–0–FY–21–103, FEMA Form 008–0–FY–21–104.

Abstract: In accordance with the Paperwork Reduction Act of 1995, this collection assists FEMA's Individual and Community Preparedness Division to identify progress and gaps in citizen and community preparedness.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 7,000.

Estimated Number of Responses: 7,000.

Estimated Total Annual Burden Hours: 1,250.

Estimated Total Annual Respondent Cost: $46,938.

Estimated Respondents' Operation and Maintenance Costs: There are no respondents' Operation and Maintenance costs associated with this information collection.

Estimated Respondents' Capital and Start-Up Costs: There are no recordkeeping, capital and start-up costs associated with this information collection.

Estimated Total Annual Cost to the Federal Government: $281,334.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Millicent L. Brown,

Senior Manager, Records Management Branch, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2021–06070 Filed 3–23–21; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0050]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Hearing on a Decision in Naturalization Proceedings Under Section 336

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until May 24, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0050 in the body of the letter, the agency name and Docket ID USCIS–2007–0020. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0020. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0020 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; 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, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Hearing on a Decision in Naturalization Proceedings Under Section 336.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–336; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form N–336 is used, by an individual whose Form N–400, Application for Naturalization was denied, to request a hearing before an immigration officer on the denial of the N–400. USCIS uses the information submitted on Form N–336 to locate the requestor's file and schedule a hearing in the correct jurisdiction. It allows USCIS to determine if there is an underlying Form N–400, Application for Naturalization that was denied, to warrant the filing of Form N–336. The information collected also allows USCIS to determine if a member of the U.S. armed forces has filed the appeal.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–336 (paper filed) is 3,788 and the estimated hour burden per response is 2.75 hours; the estimated total number of respondents for the information collection N–336 (filed online) is 1,263 and the estimated hour burden per response is 2.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 13,575 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,600,750.

Dated: March 18, 2021.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–05984 Filed 3–23–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0026]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigrant Petition by Alien Investor

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until May 24, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0026 in the body of the letter, the agency name and Docket ID USCIS–2007–0021. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0021. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0021 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; 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, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigrant Petition by Alien Investor.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–526; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The form is used to petition for classification as an alien entrepreneur as provided by sections 121(b) and 162(b) of the Immigration Act of 1990. The data collected on this form will be used by USCIS to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–526 is 3,900 and the estimated hour burden per response is 1.83 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 7,137 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $4,290,000.

Dated: March 18, 2021.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–05987 Filed 3–23–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2682–21; DHS Docket No. USCIS–2021–0003]

RIN 1615–ZB86

Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure; Correction

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS), a component of the Department of Homeland Security (DHS), is making corrections to the notice titled ''Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure'' that published in the **Federal Register** on March 9, 2021. USCIS is correcting typographical errors in the Table 1—Mailing Addresses and Table 2—Mailing Addresses sections of the notice.

FOR FURTHER INFORMATION CONTACT:

- You may contact Maureen Dunn, Division Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.
- For further information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS web page at *uscis.gov/tps.* You can find specific information about Venezuela's TPS designation by selecting ''Venezuela'' from the menu on the left side of the TPS web page.
- For further information on DED, including additional information on eligibility, please visit the USCIS DED web page at *uscis.gov/humanitarian/temporary-protected-status/deferred-enforced-departure.* You can find specific information about DED for Venezuela by selecting ''DED Granted Country: Venezuela'' from the menu on the left of the DED web page.
- If you have additional questions about DED or TPS, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *uscis.gov*, or visit the USCIS Contact Center at *uscis.gov/contactcenter.*
- Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION: On March 9, 2021, DHS published a notice in the **Federal Register** at 86 FR 13574. USCIS is making two corrections to that published notice. USCIS is correcting the zip code listed in Table 1—Mailing Addresses to read ''60680'' instead of ''60690'' and to provide additional information in the Attn: line. USCIS is also correcting the zip code listed in Table 2—Mailing Addresses at page 13579 to read ''60680'' instead of ''60680–6943'' and to provide additional information in the Attn: line. Although USCIS has not encountered mail delivery issues since the registration period started on March 9, 2021, USCIS is making the corrections with this Notice to formally update the March 9th publication.

Corrections

In FR Doc. 2021–04951, beginning on page 13574, in the **Federal Register** of March 9, 2021, make the following corrections:

1. On page 13578, Table 1 is corrected to read as follows:

TABLE 1—MAILING ADDRESSES

If you live in:	Then, mail your application to:
Florida	For U.S. Postal Service (USPS): USCIS, Attn: TPS Venezuela, P.O. Box 20300, Phoenix, AZ 85036. For FedEx, UPS, and DHL deliveries: USCIS, Attn: TPS Venezuela (Box 20300), 1820 E Skyharbor Circle S, Suite 100, Phoenix, AZ 85034.
Any other state	For U.S. Postal Service (USPS):, USCIS, Attn: TPS Venezuela, P.O. Box 805282, Chicago, IL 60680.

TABLE 1—MAILING ADDRESSES—Continued

If you live in:	Then, mail your application to:
	For FedEx, UPS, and DHL deliveries: USCIS, Attn: TPS Venezuela (Box 805282), 131 South Dearborn—3rd Floor, Chicago, IL, 60603–5517.

2. On page 13579, Table 2 is corrected to read as follows:

TABLE 2—MAILING ADDRESSES

If you are:	Mail to:
Mailing your form through the U.S. Postal Service	USCIS, Attn: DED Venezuela, P.O. Box 805283, Chicago, IL 60680.
Using FedEx, UPS, or DHL	USCIS, Attn: DED Venezuela (Box 805283), 131 South Dearborn—3rd Floor, Chicago, IL 60603–5517.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security.

[FR Doc. 2021–06100 Filed 3–22–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0010]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Nonimmigrant Petition Based on Blanket L Petition

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until May 24, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0010 in the body of the letter, the agency name and Docket ID USCIS–2006–0050. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0050. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0050 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies 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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; 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, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129S; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: Business or other for-profit. Employers seeking to classify employees outside the United States as executives, managers, or specialized knowledge professionals, as nonimmigrant intra-company transferees pursuant to a previously approved blanket petition under sections 214(c)(2) and 101(a)(15)(L) of the Act, may file this form. USCIS uses the information provided through this form to assess whether the employee meets the requirements for L–1 classification under blanket L petition approval. Submitting this information to USCIS is voluntary. USCIS may provide the information provided through this form to other Federal, State, local, and foreign government agencies and authorized organizations, and may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129S is 75,000 and the estimated hour burden per response is 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 225,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $36,750,000.

Dated: March 18, 2021.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–05985 Filed 3–23–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–14]

7-Day Notice of Emergency Approval of an Information Collection: Collection of Required Information for CARES Act Quarterly Reporting, OMB Control No.: 2535–XXXX

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, HUD has requested from the Office of Management and Budget (OMB) emergency approval of the information collection described in this notice.

DATES: *Comments Due Date:* March 31, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Collection of Required Information for CARES Act Quarterly Reporting.

OMB Approval Number: Pending.

Type of Request New.

Form Number: Forms associated to collections listed below.

Description of the need for the information and proposed use: On March 27, 2020, the ''Coronavirus Aid, Relief, and Economic Security Act'' (CARES Act) was signed into law. The CARES Act provided $12.4 billion in additional FY2020 funding for HUD to prevent, prepare for, and respond to COVID–19, including providing additional resources to meet emerging needs, support existing rental assistance programs, and to support capacity and oversight. The award provides HUD recipients the flexibility to meet evolving COVID–19 needs in their respective communities, including extending operational hours, increasing staffing hours, purchasing additional equipment, enhancing workforce training and capacity development, and providing critical housing services to people during this pandemic.

The U.S. Department of Housing and Urban Development requests a clearance of this information collection request to allow for immediate outreach to Large Covered Funds recipients, defined as recipients of CARES Grant amounts over $150,000. This information collection request will enable the U.S. Department of Housing and Urban Development (HUD) to collect the quarterly information required to be in compliance with the requirements outlined in section 15011 of the CARES Act. Reporting provisions include that not later than 10 days after the end of each calendar quarter, each covered recipient shall submit to the agency and the committee a report that contains (A) the total amount of large covered funds received from the agency; (B) the amount of large covered funds received that were expended or obligated for each project or activity; (C) a detailed list of all projects or activities for which large covered funds were expended or obligated, including (i) the name of the project or activity; (ii) a description of the project or activity; and (iii) the estimated number of jobs created or retained by the project or activity.

The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury, the Administrator of the Small Business Administration, and the Chairperson of the Council of Economic Advisors, shall submit to the appropriate congressional committees and publicly release on the website established under section 15010(g) quarterly reports that detail the impact of programs funded through large covered funds on employment, estimated economic growth, and other key economic indicators, including information about impacted industries.

This information will be reported by the grant recipients to the program offices within HUD, then aggregated with the related information already being captured today. This aggregated information will form the required quarterly reporting for CARES Act funds that HUD submits to the Pandemic Response Accountability Committee (PRAC).

For those programs where this would be an increase in the frequency of the information currently reported by moving from annual to quarterly reporting, the actual use of the information currently collected is the quarterly submission file to the PRAC.

Respondents (*i.e.* affected public): The respondents for this information collection request are the HUD program recipients of large covered funds provided by the CARES ACT, as defined in the above section.

Estimated Number of Respondents: There are an estimated 3,700 potential respondents across all HUD programs based on the obligations data from USASpending.gov as of March 4, 2021.

Frequency of Response: This information is to be captured quarterly, as outlined in the reporting requirements section of the CARES Act.

Related Forms and Processes Currently in Place: The following table outlined the related forms that will be impacted as part of this collection effort:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
CDBG	1,209	3	3,627	14.18	51,445	35.16	$1,808,794
ESG	2,360	3	7,080	2.94	20,832	39.96	832,428
HOPWA	128	3	384	6.97	2,676	25.35	67,849
Total	3,697	3	11,091		74,953		2,709,071

***Please note:** The table above is only reflective of the existing PRAs for CPD programs, with the total current number potential respondents across all HUD programs (based on the obligations data from *USASpending.gov* as of March 4, 2021) is estimated to be 5,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–06015 Filed 3–23–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0036]

Agency Information Collection Activities; Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 24, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0036 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Sections 507(b), 508(a), 510(b), 515(b) and (d), and 522 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.,* require applicants to submit operation and reclamation plans for coal mining activities. This information collection is needed to determine whether the plans will achieve the reclamation and environmental protections that SMCRA requires. Without this information, Federal and State regulatory authorities

cannot review and approve permit application requests.

Title of Collection: Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans.

OMB Control Number: 1029–0036.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State governments and businesses.

Total Estimated Number of Annual Respondents: 100.

Total Estimated Number of Annual Responses: 4,000.

Estimated Completion Time per Response: Varies from 2 hours to 160 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 100,000.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $1,000,000.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–06073 Filed 3–23–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0111]

Agency Information Collection Activities; Areas Designated by Act of Congress

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 24, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0111 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: OSMRE and State regulatory authorities use the information collected for 30 CFR part 761 to ensure that persons planning to conduct surface coal mining operations on the lands protected by § 522(e) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1272(e), have the right to do so under one of the exemptions or waivers provided by this section of the Act.

Title of Collection: Areas Designated by Act of Congress.

OMB Control Number: 1029–0111.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State governments and businesses.

Total Estimated Number of Annual Respondents: 183.

Total Estimated Number of Annual Responses: 315.

Estimated Completion Time per Response: Varies from one hour to 40 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 3,119.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $19,260.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–06072 Filed 3–23–21; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 211S180110; S2D2S SS08011000 SX064A000 21XS501520; OMB Control Number 1029–0059]

Agency Information Collection Activities; Grants to States and Tribes

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 24, 2021.

ADDRESSES: Send your comments on this information collection request (ICR)

by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0059 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the OSMRE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: State and Tribal reclamation and regulatory authorities are requested to provide specific budget and program information as part of the grant application and reporting processes authorized by the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

Title of Collection: Grants to States and Tribes.

OMB Control Number: 1029–0059.

Form Number: OSM–47, OSM–49, and OSM–51.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and Tribal governments.

Total Estimated Number of Annual Respondents: 27.

Total Estimated Number of Annual Responses: 171.

Estimated Completion Time per Response: Varies from one hour to 10 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 741.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2021–06074 Filed 3–23–21; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1184]

Certain Shaker Screens for Drilling Fluids, Components Thereof, and Related Marketing Materials; Notice of a Commission Determination of Violation of Section 337; Issuance of a General Exclusion Order; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation. The Commission has issued a general exclusion order (''GEO'') barring entry of certain shaker screens and components thereof that infringe certain claims of three patents asserted in this investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 21, 2019, based on a complaint, as amended, filed by M–I L.L.C. of Houston, Texas (''M–I''). 84 FR 64339 (Nov. 21, 2019). The amended complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain shaker screens for drilling fluids, components thereof, and related marketing materials by reason of infringement of: (1) Certain claims of U.S. Patent Nos. 7,210,582 (''the '582 patent''), 7,810,649 (''the '649 patent''), and 8,925,735 (''the '735 patent''); and (2) U.S. Trademark Registration Nos. 2,151,736 and 2,744,891. *Id.* The Commission's notice of investigation named six respondents, including Anping Shengjia Hardware Mesh Co., Ltd. (''SJ Screen'') and Hebei Hengying Wire Cloth Co. Ltd (''Hengying Wire Cloth'') (collectively the ''Defaulting Respondents''). *Id.* at 64339–40. The Office of Unfair Import Investigations (''OUII'') is participating in this investigation. *Id.* at 64340.

On February 5, 2020, the Commission found SJ Screen and Hengying Wire Cloth in default. Order No. 10, *unreviewed,* Notice (Mar. 5, 2020). Thereafter, and after the termination of the other remaining respondents by consent order, *see* Order No. 8, *unreviewed,* Notice (Feb. 6, 2020); Order No. 14, *unreviewed,* Notice (Apr. 23, 2020), M–I withdrew all of its trademark-based allegations, as well as claims 2–11 of the '582 patent; claims 2–7 and 9 of the '649 patent; and claims 2–9, 13, 16, and 18–19 of the '735 patent from the investigation. *See* Order No. 19, *unreviewed,* Notice (Sept. 24, 2020). The patent claims remaining in the

investigation are claims 1 and 12 of the '582 patent; claim 1 of the '649 patent; and claims 1, 12, and 17 of the '735 patent.

On August 27, 2020, M–I filed a motion for summary determination that the Defaulting Respondents violated section 337 and that M–I satisfies the domestic industry requirement of section 337. The motion sought issuance of a general exclusion order (''GEO'') and imposition of a one hundred percent (100%) bond on accused products imported during the Presidential review period. On September 16, 2020, OUII filed a response supporting M–I's motion, including the remedial relief requested therein.

On November 19, 2020, the ALJ issued the subject ID granting M–I's motion and recommending issuance of a GEO and imposition of a bond in the amount of 100 percent of the entered value of infringing products. Specifically, the ID found that (1) the Commission has jurisdiction over the products, the parties, and the investigation; (2) the importation requirement is satisfied; (3) M–I has standing to bring this investigation; (4) all of the remaining asserted claims are infringed by one or more of the Defaulting Respondents' products; and (5) M–I has satisfied the domestic industry requirement of section 337. Additionally, the ALJ recommended that the Commission issue a GEO and impose a bond in the amount of one hundred percent (100%) of the entered value of infringing articles imported during the period of Presidential review.

On January 4, 2021, the Commission determined to review the ID's finding that M–I's investments in plant and equipment and M–I's employment of labor and capital are significant under section 337(a)(3)(A) and (B). Notice (Jan. 4, 2021). The Commission also sought briefing on remedy, bonding, and the public interest. M–I filed a submission in response on January 19, 2021 and filed a corrected version of that response on January 22, 2021. OUII filed a submission in response on January 19, 2021 and filed a reply submission on January 26, 2021. No submissions were received from the public.

Having reviewed the written submissions and the evidentiary record, the Commission has determined to affirm the ID's finding that M–I satisfied the economic prong of the domestic industry requirement on the basis that M–I made significant investments in plant and equipment and significant employment of labor under section 337(a)(3)(A) & (B), 19 U.S.C. 1337(a)(3)(A) & (B), but to vacate the ID's value-added analysis (ID at 65–66).

The Commission has determined that the appropriate remedy in this investigation is a GEO prohibiting the unlicensed importation of certain shaker screens for drilling fluids and components thereof that infringe claims 1 and 12 of the '582 patent; claim 1 of the '649 patent; and claims 1, 12, and 17 of the '735 patent. The Commission has further determined that the public interest factors enumerated in section 337(d), 19 U.S.C. 1337(d), do not preclude issuance of the GEO. Finally, the Commission has determined that a bond in the amount of one hundred (100) percent of the entered value of the imported articles that are subject to the GEO is required to permit temporary importation of the articles in question during the period of Presidential review, 19 U.S.C. 1337(j). The investigation is hereby terminated in its entirety.

The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance. The Commission has also notified the Secretary of the Treasury and Customs and Border Protection of the order.

The Commission vote for these determinations took place on March 18, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

While temporary remote operating procedures are in place in response to COVID–19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.

Issued: March 18, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–06016 Filed 3–23–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Anheuser-Busch InBev SA/NV, et al.; Response to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below the Response to Public Comments on the Proposed Final Judgment in *United States* v. *Anheuser-Busch InBev SA/NV, et al.,* Civil Action No. 4:20–cv–01282–SRC, which was filed in the United States District Court for the Eastern District of Missouri on March 17, 2021, together with a copy of the two comments received by the United States.

A copy of the comments and the United States' response to the comments is available at *https://www.justice.gov/atr/case/us-v-anheuser-busch-inbev-sanv-et-al.* Copies of the comments and the United States' response are available for inspection at the Office of the Clerk of the United States District Court for the Eastern District of Missouri. Copies of these materials may also be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

United States District Court for the Eastern District of Missouri Eastern Division

United States of America, Plaintiff, v. *Anheuser-Busch INBEV SA/NV, Anheuser-Busch Companies, LLC*, and *Craft Brew Alliance, Inc.,* Defendants.

Civil Action No.: 4:20–cv–01282–SRC

Response of Plaintiff United States to Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (the ''APPA'' or ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States hereby responds to the two public comments received regarding the proposed Final Judgment in this case. After careful consideration of the submitted comments, the United States continues to believe that the divestiture required by the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is therefore in the public interest. The United States will move the Court for entry of the proposed Final Judgment after the public comments and this

response have been published as required by 15 U.S.C. 16(d).

I. Procedural History

On November 11, 2019, Defendant Anheuser-Busch Companies, LLC (''AB Companies''), a minority shareholder in Defendant Craft Brew Alliance, Inc. (''CBA''), agreed to acquire all of CBA's remaining shares in a transaction valued at approximately $220 million. AB Companies is a wholly-owned subsidiary of Defendant Anheuser-Busch InBev SA/NV (''ABI''). After a thorough and comprehensive investigation, the United States filed a civil antitrust Complaint on September 18, 2020, seeking to enjoin the proposed transaction because it would substantially lessen competition for beer sold in the state of Hawaii, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. *See* Dkt. No. 1.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order (''Stipulation and Order'') in which the United States and Defendants consented to entry of the proposed Final Judgment after compliance with the requirements of the Tunney Act. *See* Dkt. No. 2–1. On September 25, 2020, the Court entered the Stipulation and Order. *See* Dkt. No. 14. On October 6, 2020, the divestiture contemplated by the proposed Final Judgment was effectuated to PV Brewing Partners, LLC (''PV Brewing''). On October 26, 2020, the United States filed a Competitive Impact Statement, describing the transaction and the proposed Final Judgment. *See* Dkt. No. 17.

On October 30, 2020, the United States published the proposed Final Judgment and the Competitive Impact Statement in the **Federal Register,** *see* 85 FR 68918 (October 30, 2020), and caused notice regarding the same, together with directions for the submission of written comments relating to the proposed Final Judgment, to be published in the *Washington Post* from October 30, 2020, through November 5, 2020; the *St. Louis Post-Dispatch* from October 30, 2020, through November 7, 2020; and the *Honolulu Star-Advertiser* from October 30, 2020, through November 9, 2020. The 60-day public comment period ended on January 8, 2021. The United States received two public comments. *See* Tunney Act Comment of the Attorney General of Hawaii on the Proposed Final Judgment, attached as Exhibit A; Tunney Act Comment of Maui Brewing Co., attached as Exhibit B.

II. The Complaint and the Proposed Final Judgment

The Complaint alleges that ABI's proposed acquisition of CBA would likely eliminate important existing head-to-head competition in the state of Hawaii between ABI's beer brands and CBA's beer brands, particularly CBA's Kona brand. Specifically, CBA's Kona brand competes closely with ABI's Stella Artois and Michelob Ultra brands, and also competes with ABI's Bud Light and Budweiser brands. The Complaint also alleges that, but for the merger, the competition between ABI and CBA in Hawaii likely would have grown significantly because CBA was investing in its business in Hawaii, had plans to significantly grow its share of beer volume sold in Hawaii, and planned to open a new brewery in 2021. The Complaint also alleges that the transaction would likely facilitate price coordination between ABI and Molson Coors Beverage Company in Hawaii. This likely reduction in existing and future competition would result in higher prices and reduced innovation for consumers in Hawaii, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

The proposed Final Judgment remedies the harm to competition alleged in the Complaint by requiring a divestiture that will establish an independent, economically viable competitor in the state. It requires Defendants to divest Kona Brewery, LLC (''Kona Hawaii''), which includes CBA's entire Kona brand business in the state of Hawaii, as well as other related tangible and intangible assets, to an acquirer approved by the United States. ABI proposed PV Brewing as the acquirer. After a rigorous and independent evaluation, the United States approved PV Brewing as the acquirer. PV Brewing is a well-financed company, backed by private equity, that is incentivized to compete aggressively in the Hawaii beer market. In addition, the operational leadership of PV Brewing has extensive experience in the brewing, developing, packaging, importing, distributing, marketing, promoting, and selling of beer.

The proposed Final Judgment also allows the acquirer, at its option, to enter into a supply contract, distribution agreement, and transition services agreement with ABI. These divestiture assets and optional supply, distribution, and transition services agreements—which are similar to agreements that CBA had with ABI prior to the transaction—will enable the acquirer to compete effectively from day one in the market for beer in the state of Hawaii, thereby restoring the competition that would otherwise likely be lost as a result of the transaction. PV Brewing has elected to exercise its options and entered into supply, distribution, and transition services agreements with ABI, as permitted by the proposed Final Judgment.

III. Standard of Judicial Review

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *Associated Milk Producers, Inc.,* 534 F.2d 113, 117 (8th Cir. 1976) (''It is axiomatic that the Attorney General must retain considerable discretion in controlling government litigation and in determining what is in the public interest.''); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether

the mechanisms to enforce the final judgment are clear and manageable'').

Under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not '' 'make de novo determination of facts and issues.' '' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quoting *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73 CV 681–W–1, 1977 WL 4352, at *9 (W.D. Mo. May 17, 1977)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted).

''The court should bear in mind the *flexibility* of the public interest inquiry: the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted); *see also United States* v. *Deutsche Telekom AG,* No. 19–2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Id.* at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.; see also United States* v. *Mid-Am. Dairymen, Inc.,* No. 73 CV 681–W–1, 1977 WL 4352, at *9 (W.D. Mo. May 17, 1977) (''It was the intention of Congress in enacting [the] APPA to preserve consent decrees as a viable enforcement option in antitrust cases.'').

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'') (internal citations omitted); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case''); *see also Mid-Am. Dairymen,* 1977 WL 4352, at *9 (''The APPA codifies the case law which established that the Department of Justice has a range of discretion in deciding the terms upon which an antitrust case will be settled''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.''' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

IV. Summary of Comments and the United States' Response

The United States received two public comments in response to the proposed Final Judgment. One comment is from the State of Hawaii through its Office of the Attorney General (''Hawaii AG''). The other comment is from Maui Brewing Co. (''Maui Brewing''), which describes itself as Hawaii's ''largest craft brewer.'' Exhibit B at 1. Maui Brewing sought to purchase the divestiture assets by submitting an ''Indication of Interest'' to ABI, but was not selected by ABI as the proposed acquirer. *Id.* at 2.

The overarching concern raised by both the Hawaii AG and Maui Brewing is that the acquirer, PV Brewing, will continue to significantly rely on ABI such that it will not compete independently with, nor constrain, ABI. More specifically, the concerns raised by the Hawaii AG and Maui Brewing can be grouped into five categories: (1) ABI will retain the rights to the Kona brand outside of Hawaii; (2) the acquirer may enter into a distribution agreement with ABI's wholly-owned distributor, as CBA did prior to the transaction; (3) the acquirer may enter into a supply contract with ABI to brew and package at least some of its beer, as CBA did prior to the transaction; (4) the acquirer may enter into a temporary transition services agreement with ABI; and (5) the

process by which ABI selected the proposed acquirer was unfair.[1]

For these reasons, the Hawaii AG asserts that the proposed Final Judgment fails to protect competition, although the Hawaii AG chose not to exercise its own independent authority to challenge the transaction under the antitrust laws. For its part, Maui Brewing contends that, due to the concerns above, it should be the acquirer of the divestiture assets instead of PV Brewing.

A. The Remedy Creates an Independent, Robust Competitor in Hawaii Where the Competitive Harm was Likely to Occur

The Hawaii AG and Maui Brewing express concern that ABI retains the rights to sell Kona-branded beer outside of Hawaii following the divestiture. *See* Exhibit A at 2–3; Exhibit B at 2. In their view, ABI's ability to sell Kona-branded beer outside of Hawaii could impede the acquirer's ability to compete effectively in the market for beer in Hawaii. There is no basis for this concern; the proposed Final Judgment grants the acquirer the assets, rights, and personnel it needs to be a robust competitor in Hawaii, the only state in which the transaction would have otherwise harmed competition.

In this case, the Complaint alleges harm to competition in a geographic market ''no larger than the state of Hawaii.'' *See* Dkt. No. 1 (Complaint ¶ 19). The overarching purpose of a merger remedy is to restore the competition lost by the transaction. *See Ford Motor Co.* v. *United States,* 405 U.S. 562, 573 (1972) (''The relief in an antitrust case must be 'effective to redress the violations' and 'to restore competition.'''') (quoting *United States* v. *E. I. Du Pont De Nemours & Co.,* 366 U.S. 316, 326 (1961)); *see also* U.S. Dep't of Justice, Merger Remedies Manual (2020) (''DOJ Merger Remedies Manual'') at 3, *available at https://www.justice.gov/atr/page/file/1312416/download*.[2] Therefore, it is appropriate for the merger remedy here to focus on restoring competition in the state of Hawaii.

Consistent with this principle, when a license for a product ''covers the right to compete in multiple product or geographic markets, yet the merger adversely affects competition in only a subset of these markets, the [Antitrust] Division will insist only on the sale or license of rights necessary to maintain competition in the affected markets.'' DOJ Merger Remedies Manual at 7 n.25; *see also United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (rejecting complaining competitor's request that the Final Judgment be broadened to allow all customers—regardless of their location—to terminate their contracts with the parties without incurring fees because that would far exceed what is necessary to remedy the harm alleged in the complaint limited to 15 geographic markets).

The divestiture assets encompass Kona Hawaii, CBA's entire Kona brand business unit in the state, including a restaurant, a brewery, a brewpub, a new brewery that is currently under construction, and an exclusive, irrevocable, perpetual, and fully paid-up license to Kona-branded products in Hawaii, which gives the acquirer the sole right to sell Kona-branded products in Hawaii. *See* Dkt. No. 2–1, Exhibit A (Proposed Final Judgment, Para. II.I., M.–O.). The license grants the acquirer the sole right to innovate and develop new products using the Kona brand name and sell them in Hawaii. This right is important as beer brewers increasingly compete with one another by developing innovative products that are marketed using established beer brand names. Similarly, the license grants the acquirer the sole right to develop Hawaii-specific marketing promotions or Hawaii-specific packaging for the beer brewed at the new brewery, once it is operational.

Paragraph IV.I. of the proposed Final Judgment establishes mechanisms by which the acquirer can hire personnel formerly employed by Kona Hawaii. Indeed, the United States understands that the Kona Hawaii leadership team has already joined PV Brewing. Those personnel will further enhance PV Brewing's ability to compete effectively in Hawaii. And the divestiture will enhance Kona Hawaii's independence from ABI. Before the transaction, ABI held an approximate 31% stake in CBA and, by extension, in Kona Hawaii. *See* Complaint ¶ 13. Following the divestiture, ABI will no longer own any stake in Kona Hawaii.

Regardless of ABI's rights to the Kona brand in other geographies more than 2,000 miles away, the acquirer will be the sole owner of the rights to sell Kona-branded products in Hawaii—the state where the competitive harm is alleged to occur. As such, the acquirer will be fully empowered and incentivized to compete and grow its sales in Hawaii, thereby preserving the competition that would otherwise be lost as a result of the transaction.

B. The Distribution Relationship With ABI Is Optional and Terminable

The Hawaii AG and Maui Brewing express concern that the proposed Final Judgment permits the acquirer to enter into a distribution agreement with ABI's wholly-owned distributor. *See* Exhibit A at 3–7; Exhibit B at 2. More specifically, the Hawaii AG asserts that the distribution agreement gives ABI ''control and authority'' over the price of the acquirer's Kona-branded beer, Exhibit A at 3, ''pav[ing] the way for Molson Coors to follow any price increases announced by [ABI] in Hawaii,'' *id.* at 4, and giving ABI the ''ability to prevent PV [Brewing] from competing against other beers sold by ABI,'' *id.* at 5. These assertions are incorrect.

Brewers must have access to distribution channels to compete effectively in the beer industry. To give the acquirer access to distribution channels from day one, the proposed Final Judgment provides for a distribution agreement with ABI's wholly-owned subsidiary in the state. The distribution arrangement set forth in the proposed Final Judgment merely affords the acquirer the option to continue a distribution relationship that existed between CBA and ABI prior to the transaction. *See* Exhibit A at 3 (acknowledging that ABI distributed CBA's beer in Hawaii prior to the transaction). As the Complaint alleges, during the time when ABI and CBA had a distribution relationship, CBA competed head to head with ABI and constrained ABI's ability to coordinate higher prices in Hawaii. For example, the Complaint states that ''ABI and CBA compete directly against each other in Hawaii,'' Complaint ¶ 25; that ''Molson Coors's willingness to follow ABI's announced price increases is constrained'' by ''CBA and its Kona brand,'' Complaint ¶ 30; and that ''the competition provided by CBA's Kona in the premium segment serves as an important constraint on the ability of ABI to raise its beer prices,'' Complaint ¶ 16.[3] After the divestiture, the acquirer

[1] The Hawaii AG also raises an issue regarding the labels that it believes should be affixed to beer products brewed outside of the state of Hawaii. S*ee* Exhibit A at 10 n.23. To the extent the State of Hawaii wishes to require brewers to disclose the source of beer sold in the state of Hawaii, that is a matter unrelated to the antitrust violation alleged in the Complaint and, as such, is outside the purview of the Court's review under the Tunney Act. *See Microsoft,* 56 F.3d at 1459–60.

[2] ''The purpose of this manual is to provide [Antitrust] Division attorneys and economists with a framework for structuring and implementing appropriate relief short of a full-stop injunction in merger cases.'' *Id.* at 2.

[3] The Complaint is taken as true for purposes of evaluating whether a remedy is adequate in a Tunney Act Proceeding. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1459 (D.C. Cir. 1995). Commenters are not permitted to construct their

Continued

will have the ability and incentive to continue to offer at least this same level of competition, even if it chooses to contract with ABI for distribution services, just as CBA did before the transaction.

Here, the proposed Final Judgment requires that the distribution agreement be sufficient to meet the acquirer's needs, as the acquirer determines, and last for a period of time as determined by the acquirer. *See* Dkt. No. 2–1, Exhibit A (Proposed Final Judgment, Para. IV.O.). The distribution agreement with ABI's wholly-owned distributor is optional, which provides the acquirer with the ability to choose its own preferred method of distribution, whether that is ABI's wholly-owned distributor or another distributor in the state of Hawaii. In making this decision, the acquirer's incentive will be to employ the distributor that most effectively sells its beer in competition with ABI and other rivals. The approved acquirer, PV Brewing, has the expertise necessary to make this choice for itself. PV Brewing's operational leadership has extensive experience in the beer industry, including negotiating distribution agreements.

Even after entering into a distribution agreement with ABI's wholly-owned distributor, the acquirer will be able to terminate the agreement without cause, beginning one year after the agreement's effective date. *See id.* Thus, if ABI's wholly-owned distributor prices the Kona-branded products too high or too low to retailers or otherwise fails to market the Kona-branded products effectively, the acquirer will be able to shift its Kona-branded products to another distributor. The threat of termination without cause will incentivize ABI's wholly-owned distributor to promote and sell the Kona-branded products to the acquirer's satisfaction in order to retain the popular Kona brand in its portfolio.[4]

Further, as noted above, the proposed Final Judgment establishes mechanisms by which PV Brewing can hire personnel formerly employed by Kona Hawaii. *See id.* at Para. IV.I. The Kona Hawaii leadership team's experience in the Hawaii beer industry further enhances PV Brewing's ability to select the distribution channels that allow it to compete most effectively in the state.

C. The Contract Brewing Relationship With ABI Is Optional, Non-Exclusive, and Temporary

The Hawaii AG and Maui Brewing express concern about allowing the acquirer, at its option, to engage ABI to brew and package Kona beer for the acquirer to sell in Hawaii. *See* Exhibit A at 8–10; Exhibit B at 2. The Hawaii AG contends that PV Brewing ''will remain reliant on ABI for the production, packaging, and delivery of beer'' sufficient to meet PV Brewing's needs until the new brewery is operational, and so long as PV Brewing sells bottled beer in Hawaii. Exhibit A at 9–10.

The United States agrees that until the new brewery in Hawaii is operational, the acquirer will need to arrange for another brewer to brew its canned and kegged beer in order to compete in Hawaii. Similarly, so long as the acquirer wishes to sell bottled beer in Hawaii, the acquirer will need to arrange for another brewer to brew and ship the acquirer's bottled beer to Hawaii.[5] To ensure the uninterrupted supply of Kona-branded beer to sell in Hawaii, the proposed Final Judgment requires ABI to enter into a non-exclusive supply contract for the production, packaging, and delivery of beer sufficient to meet the acquirer's needs, as the acquirer determines and at the acquirer's option.

As set forth in Paragraph IV.N. of the proposed Final Judgment, the contract brewing relationship with ABI does not impose any constraints on the acquirer. The contract has no minimum or maximum volume requirements, and it is non-exclusive. The acquirer is free to engage companies other than ABI to brew its beer for sale in Hawaii, either to supplement ABI's production or to replace ABI. This optional supply contract is limited to five years maximum to ensure that the acquirer will become a fully independent competitor to ABI. The supply contract cannot be extended, amended, or otherwise modified without the approval of the United States.

The proposed Final Judgment provides the acquirer with the flexibility to choose its own preferred supplier, whether that is ABI or another brewer on the mainland. In making this decision, the acquirer's incentive will be to employ the contract brewer that most effectively brews and ships its beer. The approved acquirer, PV Brewing, has the expertise necessary to make this choice for itself.

The Hawaii AG lists various factors that it contends could make it less than ''viable'' for PV Brewing to switch to a new contract brewer. Exhibit A at 10. The Hawaii AG, however, does not offer any reason to conclude that non-ABI contract brewers are incapable of managing ''the intricacies of switching,'' maintaining ''quality control and consistency,'' or ensuring ''sufficient production quantities'' for PV Brewing's needs. *Id.*

The Hawaii AG also expresses concern that ABI does not have adequate motivation to complete construction of the new brewery and that a delay in completing the brewery may lengthen the time the acquirer needs a supply contract. *See* Exhibit A at 8–9. The proposed Final Judgment establishes strong incentives for ABI to complete the new brewery promptly. It requires ABI to continue construction of the new brewery and to achieve an average production capacity of 1,500 barrels of saleable beer each calendar week for three consecutive calendar weeks at the new brewery, within 180 days of the Court's entry of the Stipulation and Order (that is, by March 24, 2021). *See* Dkt. No. 2–1, Exhibit A (Proposed Final Judgment, Para. IV.B.). If ABI fails to reach that production metric by the deadline, it is required to pay the United States $25,000 per day until it achieves the metric. *See id.* at Para. IV.C. Once the new brewery is operational, the acquirer will be able to brew and package canned and kegged beer for sale in Hawaii.

The Hawaii AG and Maui Brewing express doubt that the new brewery will be capable of supplying all of PV Brewing's beer, even once it is built. *See* Exhibit A at 9; Exhibit B at 2–3. When fully operational, however, the new brewery is expected to produce enough beer to meet present demand for canned and kegged Kona beer in Hawaii. And there are contract brewers, other than ABI, on the mainland with available brewing capacity to whom PV Brewing can turn to supply beer—bottled beer or otherwise—as needed.

Lastly, CBA had a brewing contract with ABI prior to the transaction. *See*

''own hypothetical case and then evaluate the decree against that case.'' *Id.*

[4] The Hawaii AG asserts, based on an excerpt from CBA's 2018 10–K filing, *see* Exhibit A at 6, that it would be costly and ''daunting'' for PV Brewing to terminate its distribution contract with ABI's wholly-owned distributor and switch the Kona-branded products to a new distributor. But the quoted language relates to CBA's former contract with ABI covering distribution throughout the United States, not the contract between PV Brewing and ABI's wholly-owned distributor covering distribution of Kona-branded products in Hawaii. As discussed above, in the distribution agreement permitted by the proposed Final Judgment, the acquirer holds the threat of termination without cause, which will incentivize ABI's wholly-owned distributor to promote and sell the Kona-branded products to the acquirer's satisfaction. In addition, in the beer industry, rival distributors typically pay the costs of switching a brand to their portfolios.

[5] As noted in the Competitive Impact Statement (Dkt. No. 17 at pg. 15), very little beer brewed in Hawaii is bottled in Hawaii because there is no large-scale production of glass beer bottles on the islands and importing empty glass bottles is prohibitively expensive for most brewers.

Complaint ¶ 13 (''ABI . . . has a contract with CBA to brew some CBA brands of beer at ABI breweries''). The contract brewing provision in the proposed Final Judgment preserves for the acquirer the option to continue a brewing relationship that allowed CBA to compete effectively in the relevant market, including against ABI.

D. The Transition Services Agreement With ABI Is Optional, Limited, Temporary, and Terminable

The Hawaii AG expresses concern that the proposed Final Judgment makes available to PV Brewing a transition services agreement with ABI, thereby giving ABI ''influence'' over PV Brewing's operations. Exhibit A at 7–8. The Hawaii AG is incorrect. The provision of transition services will not give ABI the ability to influence PV Brewing's operations because the services are narrow in scope and temporary. The provision of transition services helps ensure that the acquirer seamlessly steps into the helm of Kona Hawaii to compete with ABI.

Transition services provisions, such as the one included in the proposed Final Judgment, are commonplace in connection with divestitures and serve an important role in ensuring the success of a divestiture. *See, e.g.,* Final Judgment at 12–13, *United States* v. *United Technologies Corp.,* No. 1:18-cv-02279 (D.D.C. 2018) (requiring Defendants to supply transition services such as facility management and upkeep, government compliance, and accounting and finance, at the purchaser's option); *see also* Competitive Impact Statement at 17, *United States* v. *Bayer AG,* No. 1:18–cv–01241 (D.D.C. 2018) (noting that transition services agreements are ''aimed at ensuring that the [divestiture] assets are handed off in a seamless and efficient manner . . . [and that divestiture buyer] can continue to serve customers immediately upon completion of the divestitures.'').

Transition services agreements, such as the one contemplated by the proposed Final Judgment, are purposefully limited in scope. For example, the transition services provision here requires ABI to provide the acquirer with transition services for finance and accounting services, human resources services, supply and procurement services, brewpub consulting, on-island merchandising, brewing engineering, and information technology services and support—only if the acquirer chooses. *See* Dkt. No. 2–1, Exhibit A (Proposed Final Judgment, Para. IV.P.).

The transition services agreement permitted by the proposed Final Judgment is also temporary, lasting up to a maximum of 18 months. The acquirer has the right under the proposed Final Judgment to terminate any transition services agreement (or any portion of one), without cost or penalty, at any time upon notice to ABI. To the extent either the acquirer or ABI seeks to extend, or otherwise amend or modify a transition services agreement, those extensions, amendments, and modifications must be approved by the United States.

The Hawaii AG asserts that PV Brewing may need to rely on ABI for transition services for more than 18 months, on the basis that it may take PV Brewing time to acquire knowledgeable local employees, s*ee* Exhibit A at 8. As noted above, however, the proposed Final Judgment puts in place mechanisms by which PV Brewing can hire personnel formerly employed by Kona Hawaii, and the local leadership team of Kona Hawaii has already joined PV Brewing.

E. The United States Rigorously and Independently Assessed the Approved Acquirer

Finally, Maui Brewing contends that the process by which ABI selected PV Brewing as the proposed acquirer was ''unfairly administered,'' *see* Exhibit B at 1, and believes it instead should be approved as the acquirer of the divestiture assets. In support of that contention, Maui Brewing states that PV Brewing offered a price ''below fair market value''; Maui Brewing is more qualified than PV Brewing to be the acquirer; and ABI selected PV Brewing as the proposed acquirer due to its ''clear ties to ABI.'' Exhibit B at 1–3 (internal citations omitted).

The goal of a divestiture is to ''ensure that the purchaser possesses both the means and the incentive to maintain the level of premerger competition in the market of concern.'' DOJ Merger Remedies Manual at 6. The United States is not ''to pick winners and losers'' or to ''protect or favor particular competitors.'' *Id.* at 4–5. In vetting a potential acquirer, the United States' ''appropriate remedial goal is to ensure that the selected purchaser will effectively preserve competition according to the requirements in the consent decree, not that [the acquirer] will necessarily be the best possible competitor.'' *Id.* at 24. The United States has done so here.

In accordance with Paragraph IV.A. of the proposed Final Judgment, the United States has found PV Brewing to be an appropriate acquirer. Paragraph IV.E. of the proposed Final Judgment requires divestiture to an acquirer that ''has the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in the brewing, developing, packaging, importing, distributing, marketing, promoting, and selling of Beer in the State of Hawaii.'' Regardless of the process by which ABI selected PV Brewing as the proposed acquirer, the United States rigorously and independently evaluated PV Brewing as the proposed acquirer, including the qualifications, experience, incentives, business plans, finances, and professional and financial ties of PV Brewing and its operational team. Based on that evaluation, the United States concluded that PV Brewing is capable, willing, and incentivized to compete effectively and will preserve competition in the state of Hawaii, and approved PV Brewing as the purchaser.

Further, the price offered by PV Brewing for the divestiture assets, which Maui Brewing characterizes as ''quite low,'' Exhibit B at 2, does not cast doubt on PV Brewing's ability or intentions to compete. It is common for divestiture assets to be sold at below-market prices, because the ''divesting firm is being forced to dispose of assets within a limited period. Potential purchasers know this.'' DOJ Merger Remedies Manual at 25. Moreover, considerations other than price, such as the ability to close quickly and the likelihood of receiving approval from the United States, may result in the selection of a proposed acquirer who offers less than the highest price. In some cases, a low purchase price may raise concerns as to whether a proposed purchaser will be a successful competitor. *See, e.g., United States* v. *Aetna, Inc.,* 240 F. Supp. 3d 1, 72 (D.D.C. 2017) (citing an ''extremely low purchase price'' as evidence that the divestiture buyer was not likely to be able to replace the competition lost by the merger).

The key inquiry is whether ''the purchase price and other evidence indicate that the purchaser is unable or unwilling to compete in the relevant market.'' *See* DOJ Merger Remedies Manual at 25. In its investigation here, the United States did not find evidence that PV Brewing was unwilling or unable to compete in the relevant market, nor has Maui Brewing pointed to any such evidence.

Lastly, Maui Brewing's concern about PV Brewing's ''clear ties to ABI'' ignores the fact that the divestiture will not only preserve the competition likely to be lost by the transaction, but will enhance

Kona Hawaii's independence from ABI. As noted previously, before this transaction, ABI held an approximate 31% stake in CBA and, by extension, in Kona Hawaii. ABI also had the right to appoint two of the eight seats on CBA's Board of Directors. *See* Complaint ¶ 13. Following the divestiture, ABI will no longer own *any* stake in Kona Hawaii.

V. Conclusion

After careful consideration of the public comments, the United States continues to believe that the proposed Final Judgment provides an effective and appropriate remedy for the antitrust violation alleged in the Complaint, and is therefore in the public interest. The United States will move this Court to enter the Final Judgment after the comments and this response are published as required by 15 U.S.C. 16(d).

Dated: March 17, 2021

Respectfully Submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

/s/

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Exhibit A

Tunney Act Comment of the Attorney General of Hawaii on the Proposed Final Judgment Filed in United States of America v. Anheuser-Busch InBev SA/NV, Et Al.

Civil Action No. 4:20–cv–01282

Definitions

The following terms are used in this comment:

- *PV*—means PV Brewing Partners, LLC, the acquirer of the divestiture assets, and includes Kona Brewing LLC.
- *PV Kona Brew*—means Kona Brew products believed to be sold by PV in Hawaii.
- *ABI Kona Brew*—means Kona Brew products made by ABI and sold outside of Hawaii.
- *ABI*—means Defendants Anheuser-Busch InBev SA/NV), Anheuser-Busch Companies, LLC, and Craft Brew Alliance, Inc. (''CBA''), unless otherwise specifically noted.
- *CIS*—means the Competitive Impact Statement.
- *PFJ*—means the proposed Final Judgment.

Introduction

The PFJ provides that the intent of the divestiture remedy is:

> [That the] Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business of the brewing, developing, packaging, importing, distributing, marketing, promoting, and selling of Beer in the State of Hawaii, and that the divestiture to Acquirer will remedy the competitive harm alleged in the Complaint.[1]

The CIS provides additional insight on the intent of the divestiture remedy as follows:

> The divestiture required by the proposed Final Judgment will remedy the loss of competition alleged in the Complaint by *establishing* an *independent* and economically viable *competitor* in the market for beer in the [S]tate of Hawaii.[2] (Emphasis added.)

Respectfully, we are concerned that the PFJ does not meet the ''public interest'' standard. While the PFJ contemplates PV, a newly-formed entity, owning the divestiture assets, ongoing entanglements between ABI and PV raise concerns that: (i) The divestiture remedy will not establish PV to be truly independent of ABI; nor (ii) establish PV to be able to effectively compete with ABI in Hawaii.

We summarize our concerns as follows:

- PV and ABI will be intertwined as they both will be selling the same branded product in their respective sales territories.
- PV's entanglement with and reliance on ABI's wholly-owned distributor (''WOD'') may well mean that ABI will have pricing control and authority over the price-to-retailer (PTR) of PV Kona Brew which could foster:
  - ABI's price leadership and Molson Coors's willingness to follow ABI's announced price increases in Hawaii; and
  - Anticompetitive pricing of the PTR of PV Kona Brew in comparison to other beers sold by ABI in Hawaii.[3]
- PV's entanglement with and reliance on ABI for the performance of critical business functions through the Transition Services Agreement will give ABI influence and if not a measure of control over these business functions.
- By reason of the non-exclusive supply contract, PV will be entangled with ABI for production, packaging and delivery of PV Kona Brew to meet PV's needs:
  - We expect PV to be close to 100% reliant on ABI as its contract brewer until the new brewery is fully operational;
  - We expect PV to be reliant on ABI as long as PV chooses to sell bottled beer;
  - We expect PV to be reliant on ABI if the new brewery is not able to produce PV's entire requirements of PV Kona Brew cans and draught beer of sufficient quality and quantity after 5 years.

Discussion

Entanglement No. 1: The Common Product

Post divestiture, PV and ABI will each be parts of a whole and intricately intertwined with the other. The ''whole'' is the universe of Kona Brew products where *ideally,* ABI and PV will be selling the same product—Kona Brew beer—as follows:

> (i) Kona Brew products are to be brewed and packaged in different locations:
> a. PV Kona Brew being brewed and packaged in Hawaii; and
> b. ABI Kona Brew being brewed and packaged on the U.S. mainland; and
> (ii) Kona Brew products are to be sold in different locations:
> a. PV Kona Brew will be sold in Hawaii; and
> b. ABI Kona Brew will be sold outside of Hawaii throughout the rest of the world.[4]

ABI Kona Brew and PV Kona Brew are both tied to a common ''story'' of the beer's origins in Hawaii and the advertising and lifestyle niche reflected in the marketing of the beer, *e.g.,* the marketing of the products as ''Liquid Aloha'' and other Hawaii-themed campaigns. It would not make sense for ABI to disavow the Hawaii-connection nor for PV to now claim a non-Hawaii origin.

Since Defendants and PV are selling the same products in concept as well as in taste and marketing, each will be intricately intertwined with the other which may call for each to be moving with the other in a highly coordinated manner.

Entanglement No. 2: The Role of ABI's Wholly Owned Distributor

Per the PFJ, at the option of PV, ABI's WOD in Hawaii is required to enter into a distribution agreement with PV.[5] Thus, PV will logistically continue with the pre-transaction arrangement that CBA had where the WOD distributed all of CBA's Kona Brew products in Hawaii.[6] This WOD has distributed

[1] PFJ at ¶ III.D. at p. 8.

[2] CIS at p. 11.

[3] The PTR is the price at which the beer is sold by the distributor to retailers who set the retail price for customers. In this matter, the distributor is ABI's wholly-owned distributor.

[4] This ideal world is not what will occur because initially, portions of PV Kona Brew will be produced and packaged on the U.S. mainland and delivered to Hawaii for distribution by ABI's WOD to Hawaii retailers.

[5] See, PFJ at ¶ IV(O) on p. 13.

[6] CIS at p. 16.

other ABI beers in Hawaii in the past.[7] We expect the WOD to continue to distribute other ABI beers post-divestiture.

Since the WOD is wholly-owned by ABI, we are concerned that ABI will have the control and authority over the PTR of PV Kona Brew. Such control by ABI over the PTR is strongly suggested by ¶ 29 of the Complaint which alleges that ABI has a ''price leadership'' strategy, that ABI seeks to generate ''industry-wide price increases,'' that ABI implements this strategy by pre-announcing its own price increases and purposefully making those price increases, and that ABI tracks its primary competitors:

29. Historically, ABI has employed a ''price leadership'' strategy throughout the United States, including in Hawaii. According to this strategy, ABI, with the largest beer sales in the United States and Hawaii, seeks to generate industry-wide price increases by pre-announcing its own price increases and purposefully making those price increases transparent to the market so its primary competitors will follow its lead. These announced price increases, which can vary by geography because of different competitive conditions, typically cover a broad range of beer brands and packages (*e.g.,* container and size). After announcing price increases, ABI tracks the degree to which its primary competitors match its price increases. Depending on the competitive response, ABI will either maintain, adjust, or rescind an announced price increase.

The allegations do not mention the authority of the WOD to set the PTR or the WOD's discretion on implementation of the price leadership strategy. In fact, the allegations read as if the WOD does not have any role or involvement with ABI's industry-wide price increases, and in particular, as to price increases applicable to Hawaii.

We are therefore concerned that the entanglement of PV with ABI's WOD will pose at least two (2) anticompetitive pricing problems:

Problem No. 1: Facilitating ABI's Price Leadership viz. Molson Coors

The CIS at p. 10 describes a concern that through the proposed transaction, ''ABI would gain control over Kona's pricing and would likely increase Kona's price, thereby eliminating a significant constraint on Molson Coors's willingness to follow ABI's announced price increases in Hawaii.'' The Complaint describes the dynamics as follows:

30. For many years, Molson Coors Beverage Company (''Molson Coors''), the brewer with the second-largest beer sales in the United States and owner of many brands sold in Hawaii such as Miller Lite, Coors Light, and Blue Moon, has followed ABI's announced price increases in Hawaii to a significant degree. Molson Coors's willingness to follow ABI's announced price increases is constrained, however, by the diversion of sales to other competitors who are seeking to gain share, including CBA and its Kona brand.

31. *By acquiring CBA, ABI would gain control over Kona's pricing and would likely increase Kona's price, thereby eliminating a significant constraint on Molson Coors's willingness to follow ABI's announced price increases in Hawaii.* By reducing Kona's constraint on Molson Coors's willingness to increase prices, the acquisition likely increases the ability of ABI to facilitate price coordination, thereby resulting in higher prices for beer sold in Hawaii. For this reason, ABI's acquisition of CBA likely would substantially lessen competition in Hawaii in violation of Section 7 of the Clayton Act. (Emphasis added.)

The divestiture remedy does not remove nor lessen the prospect of a violation of Section 7 of the Clayton Act. Due to ABI's control and authority over the PTR, ABI will still possess the ability to remove any pricing constraint associated with the PTR of PV Kona Brew and thereby pave the way for Molson Coors to follow any price increases announced by ABI in Hawaii.

Problem No. 2: Anticompetitive Pricing of PV Kona Brew Versus Other Beers Sold by ABI in Hawaii

The entanglement between PV and ABI's WOD may negatively impact price competition between PV Kona Brew and other ABI beers sold in Hawaii.

ABI groups beers into five segments and sells beers in each segment in Hawaii:

1. Value (Busch Light and Natural Light);
2. Core (Bud Light and Budweiser);
3. Core-plus (Michelob Ultra and Bud Light Lime);
4. Premium (Michelob Ultra Pure Gold); and
5. Super-premium (Stella Artois and Golden Road).[8]

Importantly, as noted earlier, the WOD has distributed other ABI beers in Hawaii, and we expect it will continue to do so post-divestiture.

We are not aware of any prohibition that would prevent PV from seeking to have PV Kona Brew priced sufficiently low by a distributor independent of ABI to effectively compete with ABI's beers in other segments, such as: (i) The Value segment; (ii) the Core segment; or (iii) the Core-plus segment.[9]

But with the divestiture remedy, through its control and authority over the WOD and the PTR of PV Kona Brew, ABI will have the ability to prevent PV Kona Brew from competing against other beers sold by ABI and substantially lessen competition between PV and ABI to benefit the sales of ABI's other beers. Consider the following:

- ABI has positioned one of its beers in the premium segment—Michelob Ultra Pure Gold. ABI has the motivation to suppress competition from PV Kona Brew to protect its own premium beer in Hawaii and could cause the PTR of PV Kona Brew to be above the PTR of Michelob Ultra Pure Gold.
- ABI, through its control and authority, could increase the PTR of PV Kona Brew to remove a constraint on ABI's ability to raise prices in other segments. The Complaint contains an implicit acknowledgement that the level of PV Kona Brew's price could constrain ABI's ability to raise its beer prices not only in the premium segment but also in core-plus and other beer segments:

. . . [T]he competition provided by CBA's Kona in the premium segment [has served] as an *important constraint* on the ability of ABI to raise its beer prices not only in the premium segment, but also in core-plus and other beer segments.[10] (Emphasis added.)

In addition, ABI would likely prevent PV Kona Brew from being priced lower to compete against ABI's value, core, or core-plus beers to avoid eroding sales in Hawaii of ABI's beers in these segments.

ABI and PV may assert that a premium beer such as PV Kona Brew would not be priced to compete with other beers sold by ABI in Hawaii because the other ABI beers appeal to different tastes and customers. That said, the pricing is under the control of ABI. Also, consumers are not strictly prohibited from buying other than their favorite beer, especially if another beer is a premium beer sold at a competitive price. As noted earlier, the Complaint acknowledges that price can cause consumers switch beers or ''trade up'' or ''trade down'' in response to changes in price.

* * * * *

While PV has the option to arrange for a new distributor, pursuit of this option will likely be a daunting task that could

[7] See, *e.g., https://www.yellowpages.com/aiea-hi/mip/anheuser-busch-sales-of-hawaii-inc-11728049.*

[8] CIS at p.4.

[9] The Complaint at ¶ 16 acknowledges the importance of changes in price in prompting consumers to switch beers or ''trade up'' or ''trade down'' between segments:

Consumers may ''trade up'' or ''trade down'' between segments in response to changes in price. For example, as the prices of core-plus brands approach the prices of premium brands, consumers are increasingly willing to ''trade up'' from core-plus brands to premium brands.

[10] Complaint at ¶ 16.

impair distribution of PV Kona Brew. As CBA has noted in the past, changing the distribution network is a challenging task:

> *We have a continuing relationship with Anheuser-Busch, LLC and the current distribution network that would be difficult to replace.* Most of our products are sold and distributed through A–B's distribution network. If the A–B Distributor Agreement were terminated, we would be faced with a number of operational tasks, including establishing and maintaining direct contracts with the existing wholesaler network or negotiating agreements with replacement wholesalers on an individual basis, and enhancing our credit evaluation, billing and accounts receivable processes. Such an undertaking would require significant effort and substantial time to complete, during which the distribution of our products could be impaired. *We are dependent on our wholesalers for the sale of our products.*[11] (Emphasis added.)

Furthermore, the challenge could be far greater because we are not aware of any publicly available information showing that the principals of PV have: (i) Experience in running a Hawaii-based hands-on beer brewing operation; (ii) experience with doing business in Hawaii; or (iii) experience with servicing all the retail connections that purchased Kona Brew beer from the WOD.

Thus, we remain concerned that the entanglement of PV with ABI's WOD poses anticompetitive pricing problems.

Entanglement No. 3: ABI's Provisioning of Transition Services.

Per the PFJ, at the option of PV, Defendants are required to enter into a contract to provide transition services to PV.[12] PV will be entangled with and reliant upon ABI for the performance of critical business functions through the Transition Services Agreement which will give ABI influence if not a measure of control over these functions. These functions are:

- Finance and accounting services;
- Human resources services;
- Supply and procurement services;
- Brewpub consulting;
- On-island merchandising;
- Brewing engineering; and
- Information technology services and support.[13]

The CIS describes the brewing engineering function as ''particularly important to PV Brewing to ensure that it can run the new brewery and produce saleable Beer—which is critical to PV Brewing competing effectively in Hawaii.'' [14]

Per the CIS:

- ''Any transition Services agreement may last for a period of up to 18 months;''
- The transition services agreement contemplates ''employees of Defendants'' being ''tasked with supporting the transition services agreement;'' and
- ''Any transition services agreement must be time-limited to incentivize [PV] to become a fully independent competitor of [ABI].'' [15]

But consider that a complete termination of services via the Transition Services Agreement will likely occur only if PV has acquired employees sufficient and capable of substantially performing the myriad functions *without* the assistance of Defendants. While there is an intent to limit the term of the agreement to 18 months, we are not aware of an absolute prohibition on an amendment to extend the term beyond 18 months to address any employment shortcomings experienced by PV. We also note that the CIS contemplates changes and provides on p. 18 that ''to the extent PV Brewing or Defendants seek to amend or modify any transition services agreement, the United States must approve any changes.''

Thus, we remain concerned that PV will remain entangled with ABI for critical services beyond 18 months.

Entanglement No. 4: Contract Brewing of PV Kona Brew by ABI

Per the PFJ, at the option of PV, Defendants are required to enter into a non-exclusive supply contract for the production, packaging, and delivery of beer.[16]

We understand the logic of the contract brewing arrangement given: (i) The history of ABI brewing Kona Brew beer for years due to the absence of a fully operational brewery in Hawaii capable of handling CBA's production requirements; and (ii) the fact that ABI and PV will both selling a common product such that the quality of PV Kona Brew must be commensurate with ABI Kona Brew.

PV will be acquiring a new brewery that has been under construction since as far back as 2018 if not earlier.[17] The exact timing of when the brewery will be certified as being fully operational is unknown. But we do know that Defendants will be deemed to have complied with their PFJ obligation on the new brewery if:

(i) The new brewery achieves an average production capacity of 1,500 barrels of saleable Beer each calendar week for three consecutive calendar weeks within 180 calendar days after the Court's entry of the Stipulation and Order; [18] and

(ii) If Defendants warrant to PV that the new brewery is operational and without material defect.[19]

If these metrics are not met, then Defendants will be required to pay $25,000 per day until they achieve compliance per the PFJ.[20]

At the moment, until the brewery is fully operational, there is uncertainty as to the true capability of the new brewery to produce the entire product spectrum and quantity of PV Kona Brew cans and draught beer. We therefore expect PV will remain reliant on ABI for the production, packaging, and delivery of beer sufficient to meet PV's immediate needs via the non-exclusive supply contract with ABI.

This entanglement of PV with ABI through the non-exclusive supply contract should provide the products needed by PV and promote consistency between PV Kona Brew and ABI Kona Brew until the new brewery is fully operational. The supply agreement may be for a period of five (5) years as contemplated by the PFJ—an initial three year period plus two one-year periods.

We remain concerned, however, that PV's entanglement with ABI via the non-exclusive supply contract will continue beyond five (5) years for three reasons. First, it is unclear whether and to what extent the new brewery will be able to brew all the canned beer and draught beer needed by PV.

Second, we are not aware of an absolute prohibition on an amendment to extend the term of the non-exclusive supply contract beyond five (5) years months to address production

[11] See, Risk Factors'' section of CBA's 2018 10–K at pp. 16–17.

[12] See, PFJ at ¶ IV(P) on pp. 13–14.

[13] CIS at p. 17.

[14] CIS at p. 17.

[15] CIS at pp. 17 & 18. Interestingly, the CIS does not express the sentiment that PV be incentivized to become a ''fully independent competitor'' with respect to the distributor agreement with the WOD nor the non-exclusive supply contract with Defendants discussed later.

[16] See, PFJ at ¶ IV(N) on pp. 12–13. The movement of PV Kona Brew from the mainland brewery to the WOD appears to be a continuous flow with title to the beer remaining with ABI.

[17] The CBA 2017 10–K report at p. 23 stated that ''In 2016, we held a groundbreaking ceremony for a new brewery near our existing brewery and pub in Kona. The new brewery, which is being built with sustainability in mind, is scheduled to go online in the first quarter of 2019.'' The CBA 2018 10–K report at p. 7 stated that that the brewery was scheduled to go online in the latter half of 2019.

[18] It is not clear what ''1,500 barrels of saleable beer'' represents in terms of PV's production requirements nor clear as to the extent 1,500 barrels will free PV from ABI's contract brewing role.

[19] CIS at p. 13 referring to PFJ at ¶ IV.B and J.

[20] CIS at p. 13.

shortcomings experienced by PV. Here, we note that the CIS contemplates changes and provides on p. 16 that ''to the extent PV Brewing or Defendants seek to amend or modify any supply agreement, the United States must approve any changes.''

Third, PV does not have the facilities in Hawaii to brew bottled beer.[21] PV will therefore be reliant on the non-exclusive supply contract with ABI as long as PV decides to sell PV Kona Brew in bottles.

Admittedly, PV will have the option to contract with other brewers to brew its PV Kona Brew in bottles as well as in cans and draught. But the fact that PV may pursue a non-ABI brewing option does not mean the option is viable due to: (i) The intricacies of switching to a new brewery; (ii) the need to ensure quality control and consistency between the multiple PV Kona Brew products and ABI Kona Brew products; and (iii) the need to ensure sufficient production quantities. That ''Defendants are already familiar with the recipes and brewing processes for Kona brands'' and have the brewing capacity provides much comfort if not inertia against pursuing a non-ABI brewing option.[22] We are concerned that this entanglement between PV and ABI via the non-exclusive supply contract with ABI will continue *beyond* 5 years as long as PV chooses to sell bottled beer *and/or* if the new brewery is not able to produce PV's entire requirements of PV Kona Brew cans and draught beer of sufficient quality and quantity after 5 years.[23]

Summary

Based on the above, we are concerned that the PFJ does not meet the ''public interest'' standard. Ongoing entanglements between ABI and PV raise concerns that the divestiture remedy will not establish PV to be: (i) Truly independent of ABI; and (ii) able to effectively compete with ABI in Hawaii:

- PV and ABI will be intertwined as they both will be selling the same branded product in their respective sales territories.
- PV's entanglement with and reliance on ABI's wholly-owned distributor may well mean that ABI will have pricing control and authority over the price-to-retailer of PV Kona Brew which could foster:
  - ABI's price leadership and Molson Coors's willingness to follow ABI's announced price increases in Hawaii; and
  - Anticompetitive pricing of the PTR of PV Kona Brew in comparison to other beers sold by ABI in Hawaii.
- PV's entanglement with and reliance on ABI for the performance of critical business functions through the Transition Services Agreement will give ABI influence and if not a measure of control over these business functions.
- By reason of the non-exclusive supply contract, PV will be entangled with ABI for production, packaging and delivery of PV Kona Brew:
  - We expect PV to be close to 100% reliant on ABI as its contract brewer until the new brewery is fully operational;
  - We expect PV to be reliant on ABI as long as PV chooses to sell bottled beer; and
  - We expect PV to be reliant on ABI if the new brewery is not able to produce PV's entire requirements of PV Kona Brew cans and draught beer of sufficient quality and quantity after 5 years.

EXHIBIT B

KUPU — SPIRITS —

MAUI BREWING Co

MAUI HARD SELTZER

7 December 2020

Robert A. Lepore, Chief,

Transportation, Energy, and Agriculture Section Antitrust Division,

Department of Justice, 450 5th Street NW, Suite 8000, Washington, DC 20530

Re: Testimony; United States of America, Plaintiff, v. Anheuser-Busch INBEV SA/NV, Anheuser-Busch Companies, LLC, and Craft Brew Alliance, Inc.

Aloha Mr. Lepore,

I would like to provide comment on the proposed sale of the Craft Brewers Alliance (CBA) assets in Hawaii to PV Brewing of Kansas as we feel that the divestiture process was unfairly administered, and a buyer was selected for their clear ties to Anheuser Busch InBev (ABI) and at a price substantially below ''fair market value''. In the currently proposed structure, there is

[21] CIS at p. 15.

[22] CIS at p. 15.

[23] We also remain concerned over the potential customer confusion that could be caused by: (i) ''locally-made'' PV Kona Brew cans being comingled with cans and bottles produced and packaged for PV by ABI on the U.S. mainland under contract; and/or (ii) mainland-brewed beer being poured in bars and restaurants in Hawaii without any signage. One solution is packaging and notice to clearly and conspicuously inform consumers of where the particular PV Kona Brew was brewed. The notice provided by ABI on packaging used to date has not been as clear and conspicuous to inform consumers of where the beer was brewed.

simply no separation in the short or long term from ABI.

For a bit of background our company is 100% locally owned in Hawai'i and is a small closely held family business. We began brewing in 2005 with the simple idea that or State needed an authentic craft beer that was truly made in Hawai'i. At the time there were very few brewing operations and Kona was the only widely sold offering, and even then was not made in Hawai'i. Even back then, all the packaged product (cans did not exist at the time) and much of the draft was being brewed on the mainland, shipped to Hawai'i and sold as supposedly ''local'' and being from Hawaii. We saw an opportunity to bring authenticity and a sense of place to craft beer in Hawai'i and from that simple idea Maui Brewing Co. (MBC) was born.

Maui Brewing Co. is Hawai'i's largest craft brewer, and brewery for that matter. No one brews as much beer in the State as we do. We have a 16-year history of brewing in the islands with volumes that far surpass those of our competitors by at least 4-fold. We also operate 4 restaurant locations; two on Maui and two on Oahu. Our craft beer is synonymous with authenticity, quality, innovation and sense of place. We are local and every drop of beer brewed to date has been brewed in Hawai'i.

When we learned of the proposed divestiture of the Kona brands in State, along with the sale of the new brewery and retail locations we were intrigued at the opportunity to combine the two brands into a truly authentic Hawai'i organization leveraging the strengths of both. Most importantly I saw a vision of two brands coming together for the betterment of Hawai'i and to finally bring legitimacy to the Kona brands across the State, meaning that this would then be truly brewed in Hawai'i. In my eyes this was something to be celebrated and bringing the Kona brand *back* to Hawai'i would be my honor. We followed this transaction closely and were part of one offer through another group. This offer was not accepted and was likely ignored. The reason I say 'ignored' is that when we learned to whom the sale was awarded, we were all shocked at the extremely low price and only I was not surprised by the fact that a former ABI executive was going to be purchasing the assets of Kona. I truly did not believe that the Department of Justice (DOJ) would approve this structure as a buyer as it does not in any way fully disconnect ABI from Kona.

I look at the published information on the new brewing facility in Kona. A 30,000 square foot facility is simply not capable of producing 100,000 barrels a year. There are many ways to evaluate this. By comparison we operate an 82,000 facility approximately 65,000 of which is dedicated to brewing and have a true 100,000-barrel capacity facility. The shipping and logistics challenges in Hawai'i alone do not allow for this to be achieved. I have done a comprehensive analysis on all the publicly available data for the new brewery in Kona and suffice to say it is not nearly capable of brewing all of Kona's beer for Hawai'i. Their own marketing materials when looking to sell the Hawai'i assets state that the ''new brewery will allow for the majority of its Hawaiian consumed products to be locally brewed''. This by definition means that any ''transitional brewing agreement'' is not meant to be temporary and in fact be a long-term reliance and as soon as no one is watching it is unlikely to believe PV will attempt to brew 100% of the beer in Hawai'i. Therefore, by allowing PV Brewing (backed by a private equity firm) to purchase Kona's assets with a former ABI executive with a full-time position as President/Chief Operating Officer of a larger grocer managing from afar, a brand that is owned in the rest of the world by ABI, selling beer brewed by ABI, to an ABI Wholly Owned Distributor (WOD). Where exactly is the disconnect from ABI?

I subsequently placed a direct and unsolicited Indication of Interest for a significant premium over the PV Brewing offer for our company to acquire the Kona assets in Hawai'i. I was clear that this Indication of Interest (IOI) could be swiftly converted to Letter of Intent (LOI) and provide the basis for a Sale Agreement and close quickly to meet to needs of all parties. Prior to this direct offer, I was a consultant on an offer that was nearly a 3X premium above what was ultimately paid. I would think that the shareholders of CBA would have wanted their company to accept a qualified buyer and the highest bid.

From an enterprise value viewpoint, the purchase price awarded to PV Brewing seems quite low. What was advertised as a 24MM+ new brewery, with 2 successful restaurants grossing north of 15MM, on top of over a million case equivalents of beer sold in State, could certainly not be sold for 16MM as a legitimate enterprise value. To me, and many others, it seems this process was not conducted fairly and there clearly were motives at play to keep Kona as much under ABI influence as possible. A reasonable person can see this for what it is. It is unlikely to believe that a former ABI executive, with a separate successful career decides to start a brewery in Hawai'i with no plans to move here to operate it, begins his career as a brewer with a brand like Kona. Furthermore, that the assets are sold at a price that could only be described as a ''sweetheart deal'' awarded to former ABI company men to ensure long-term influence over the Kona brand in Hawai'i and across the world.

I then begin to look at the term ''qualified buyer''. It would seem to me that a company such as ours, with a dedicated, local, top-tier team operating 4 restaurants and the largest brewing operation in the State offering more money should at least be considered. From an experience standpoint, no one in Hawai'i and no one outside of Hawai'i has more experience brewing in the islands than we do. To say that it's a challenge to brew in Hawai'i is an understatement and we have proven our capabilities of brewing nearly 60,000 barrels of beer each year. I am also a founding member of the Hawaiian Craft Brewers Guild, Vice-Chair of the Brewers Association, and have been led more than a dozen legislative actions in Hawai'i making a profound impact on the brewing community and access to beer. Additionally, our restaurant operations group has the capability to handle additional locations. I believe our company is not only a qualified buyer, but the most qualified buyer due to our experience and capabilities.

It would seem that if the sale was meant to be a legitimate divestiture of the Kona Brewing assets in Hawai'i, the sale would have been awarded to a buyer exhibiting a history of brewing in Hawai'i at the annual volumes needed to meet demand, willing to pay a higher price, maximize shareholder value, has existing restaurant operations in Hawai'i capable of operating the two Kona pubs, and has a brewery with additional capacity to handle it's volume and augment the shortfall of the new Kona facility to meet demand without long term reliance on ABI for brewing. Again, it is inconceivable that PV Brewing can meet the Hawai'i demand for the various beers and packaging configurations without long-term reliance on ABI. Without true capabilities to brew 100% of the KBC demand in Hawai'i, ABI WOD in Hawai'i will simply be ordering and receiving direct containers of KBC brand beer from ABI facilities on the mainland, these containers would never even touch the loading dock at ''PV Brewing'' on the Big Island. With an integration of Maui Brewing Co. and Kona Brewing Co. operating as two separate ''partner'' brands we would be 100% self-sufficient after a short

transition brewing agreement. Between the two facilities MBC and KBC, we would have capacity, redundancy and true economies of scale to execute this plan completely free from ABI influence.

I have prepared a spreadsheet with data from my analysis of the publicly available information from the new brewery construction along with valuation metrics for the company. I can share this at the appropriate time in our discussion.

In closing we feel that the divestiture process was unfairly administered, and a buyer was selected for their clear ties to ABI and the desire to maintain influence. We are still an interested party and would like the opportunity to be considered as a buyer for the Kona Brewing assets within Hawai'i.

Sincerely,

/s/

Garrett W. Marrero

CEO, Founder,

Maui Brewing Co.

[FR Doc. 2021–05988 Filed 3–23–21; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–813]

Importer of Controlled Substances Application: Shertech Laboratories, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Shertech Laboratories, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 23, 2021. Such persons may also file a written request for a hearing on the application on or before April 23, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 1, 2021, Shertech Laboratories, LLC, 1185 Woods Chapel Road, Duncan, South Carolina 29334, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cocaine	9041	II

The company plans to import synthetic derivatives of the listed controlled substance in bulk form to conduct clinical trials. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–06031 Filed 3–23–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–812]

Importer of Controlled Substances Application: Medi-Physics Inc dba GE Healthcare

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Medi-Physics Inc dba GE Healthcare has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 23, 2021. Such persons may also file a written request for a hearing on the application on or before April 23, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 26, 2021, Medi-Physics Inc dba GE Healthcare, 3350 North Ridge Avenue, Arlington Heights, Illinois 60004–1412, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Ecgonine	9180	II

The company plans to import derivatives of the controlled substance to be used for the manufacture a diagnostic product and reference standards. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–06030 Filed 3–23–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–811]

Importer of Controlled Substances Application: Perkinelmer, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Perkinelmer, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 23, 2021. Such persons may also file a written request for a hearing on the application on or before April 23, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 23, 2021, Perkinelmer, Inc., 120 East Dedham Street, Boston, Massachusetts 02118–2852, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic Acid Diethylamide.	7315	I
Thebaine	9333	II

The company plans to import the listed controlled substances for bulk manufacturing of the radioactive form and sold to its customers for research purposes. Drug code 9333 (Thebaine) will be used to import the Thebaine derivative Diprenorphine. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,

Assistant Administrator.

[FR Doc. 2021–06029 Filed 3–23–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *John Raftopoulos, et al.,* Civil Action No. 1:20–CV–03166–SKC, was lodged with the United States District Court for the District of Colorado on March 18, 2021.

This proposed Consent Decree concerns a complaint filed by the United States against Defendants John Raftopoulos, Diamond Peak Cattle Company, LLC, and Rancho Greco Limited, LLC, pursuant to Section 309 of the Clean Water Act, 33 U.S.C. 1319, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The complaint also seeks to obtain injunctive relief and damages from the Defendants for violating Sections 302, 303, and 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732, 1733 and 1740, and for trespass on federal public lands. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas and to pay civil penalties and damages.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Alan Greenberg, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, 999 18th Street, Suite 370, Denver, CO 80202, *pubcomment_eds.enrd@usdoj.gov,* and refer to *United States* v. *Raftopoulos, et al.,* DJ #90–5–1–1–21104.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Colorado, Alfred A. Arraj Courthouse, 901 19th Street, Denver, CO 80294. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2021–06044 Filed 3–23–21; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP (NIJ) Docket No. 1790]

Law Enforcement Mental Health and Wellness Application Software Market Survey

AGENCY: National Institute of Justice (NIJ), Office of Justice Programs, Justice.

ACTION: Notice of request for information.

SUMMARY: The National Institute of Justice (NIJ) is soliciting information for use in an upcoming Criminal Justice Testing and Evaluation Consortium (CJTEC) report that will provide a landscape view of application software for mental health and wellness in the law enforcement community. The report will highlight the vendors/developers creating mental health and wellness application software products (apps) directed to law enforcement end users and other first responders. The report will also consider these mental health and wellness apps in terms of the broader context of the rapidly evolving marketplace for fitness and health and wellness products for consumer and medical applications.

DATES: Emailed responses must be received (and mailed responses postmarked) by 5:00 p.m. Eastern Time on May 10, 2021.

ADDRESSES: Responses to this request may be submitted electronically by email to Blaide Woodburn at *bwoodburn.contractor@rti.org* with the subject line ''Law Enforcement Mental Health and Wellness Application Software Market Survey Federal Register Response.'' Responses may also be sent by mail to the following address: Criminal Justice Testing and Evaluation Consortium (CJTEC), ATTN: Blaide Woodburn, Law Enforcement Mental Health and Wellness Application Software Market Survey Federal Register Response, RTI International, P.O. Box 12194, 3040 E Cornwallis Road, Research Triangle Park, NC 27709–2194.

FOR FURTHER INFORMATION CONTACT: For more information on this market survey, please contact Matt Mecray (CJTEC) by

telephone at 207–829–6084 or *mmecray@rti.org* . For more information on the NIJ CJTEC, visit *https://nij.ojp.gov/funding/awards/2018-75-cx-k003* and view the description, or contact Steven Schuetz (NIJ) by telephone at 202–514–7663 or at *steven.schuetz@usdoj.gov.* Please note that these are not toll-free telephone numbers.

SUPPLEMENTARY INFORMATION:

Information sought: CJTEC is seeking information on products, such as application software and other technologies, that can help the law enforcement community monitor and manage their own mental health and wellness. Specifically, the team is seeking technologies that fit one or more of these categories:

- Products specifically developed for the use of the law enforcement and criminal justice community
- Products specifically developed for first responders or individuals in analogous high-stress work environments
- Products designed as consumer/corporate mental health and wellness tools but are applicable to the law enforcement community

Usage: Information provided in response to this request may be published in a landscape report on mental health and wellness application software for law enforcement. This RFI is intended to solicit important general information from product developers, which may lead to later discussions to help complete a technical specifications table about the product that will be referenced in the report.

CJTEC is seeking a response from technology vendors/developers that includes:

1. Name and description of product
2. The type of product (application software or other technology-enabled solution)
3. Who this product was created for (law enforcement/criminal justice community, first responders, general employees, or other)
4. Overview of product features and literature supporting concepts behind the application software
5. Research studies on efficacy of the application software
6. User testimonials
7. Photo/screenshot of the product
8. Contact information for a future conversation (name, role, email, phone number)

An independent response should be submitted for each product that respondents would like CJTEC to consider in their landscape report. NIJ encourages respondents to provide information in common file formats, such as Microsoft Word, pdf, or plain text. Each response should include contact information.

Jennifer Scherer,

Acting Director and Principal Deputy Director, National Institute of Justice.

[FR Doc. 2021–06026 Filed 3–23–21; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Comment Request; Workforce Recruitment Program (WRP)

AGENCY: Office of Disability Employment Policy (ODEP), United States Department of Labor (DOL).

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the DOL is soliciting public comments regarding this ODEP-sponsored information collection to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments pertaining to this information collection are due on or before May 24, 2021.

ADDRESSES:

Electronic submission: You may submit comments and attachments electronically at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail submission: 200 Constitution Ave. NW, Room S–5315, Washington, DC 2020.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the DOL, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the DOL's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: David Rosenblum by telephone at 202–693–7840 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The WRP is a recruitment and referral program that connects students with disabilities to an opportunity for employment. Through participating colleges and universities, WRP creates a database for Federal and select private-sector employers nationwide to find highly motivated college students and recent graduates with disabilities who are eager to demonstrate their abilities in the workplace through summer or permanent jobs. Candidates represent all majors, and range from college freshmen to graduate students and law students. Information from these candidates is compiled in a searchable database that is available through this website to Federal Human Resources Specialists, Equal Employment Opportunity Specialists, and other Federal employees and hiring officials in Federal agencies.

Every year, WRP staff approach more than 300 colleges and universities to participate in the WRP recruitment process for the year. WRP School Coordinators at these schools conduct outreach to their eligible students and encourage them to apply to participate in the WRP. School Coordinators must be college staff and are usually from the career or disability services office. Candidates that are approved by the School Coordinators and completed the application by the deadline are given the opportunity to have an elective informational interview with a trained volunteer WRP Recruiter from a Federal agency.

To be eligible to register, candidates must be current, full-time, degree-seeking undergraduate or graduate students with a disability, or have graduated within two and a half years of the release of the database each December. Candidates must be U.S. citizens, must be attending or have graduated from a U.S. accredited college or university, and be eligible under the Schedule A Hiring Authority for persons with disabilities. Candidates must also be approved by a WRP School Coordinator to apply to WRP and participate in an interview.

Candidates are not interviewing for specific positions at specific agencies. They have the opportunity to have an elective informational interview with a Federal recruiter to learn about Federal service and discuss their career path. Candidates are not placed into jobs; they are simply applying to be part of a database of postsecondary students and recent graduates with disabilities that is made available to Federal employers

directly and to the private sector through a contractor. Employers will then reach out to candidates directly if they are interested in interviewing or hiring them for a specific position. Candidates should be aware that WRP is not a guarantee of employment and not everyone who participates in WRP is contacted by employers.

This information collection is subject to the Paperwork Reduction Act (PRA). A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

The DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an Information Collection Review cannot be for more than three (3) years without renewal. The DOL notes that currently approved information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Agency: DOL–ODEP.

Title of Collection: Workforce Recruitment Program (WRP).

OMB Control Number: 1230–0NEW.

Affected Public: Individuals and households.

Total Estimated Annual Number of Respondents: 2,500.

Total Estimated Annual Number of Responses: 2,500.

Total Estimated Annual Time Burden: 2,500 hours.

Total Estimated Annual Other Costs Burden: $0.

ESTIMATED HOURS OF BURDEN TO PARTICIPANT DATA COLLECTION—YEARS 1–3

Study	Number of respondents	Hours/ response
Year 1	2,500	1
Year 2	2,500	1
Year 3	2,500	1
	Respondents	Burden hours
Three-year Total	7,500	7,500
Three-year Average	2,500	2,500

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: March 10, 2021.

Jennifer Sheehy,

Deputy Assistant Secretary, Office of Disability Employment Policy.

[FR Doc. 2021–06041 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–FK–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Administrator of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

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. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other 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 April 5, 2021.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Administrator, Office of Trade Adjustment Assistance, at the address shown below, not later than April 5, 2021.

The petitions filed in this case are available for inspection at the Office of the Administrator, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 7th day of March 2021.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

60 TAA PETITIONS INSTITUTED BETWEEN 2/1/21 AND 2/28/21

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
96694	Liberty Iron and Metal, Inc. (Union Official)	Erie, PA	01-Feb-2021	29-Jan-2021.
96695	Grass Valley USA LLC (State Official)	Grass Valley, CA	01-Feb-2021	29-Jan-2021.
96696	Keihin Michigan Manufacturing, LLC (State Official)	Mussey, MI	01-Feb-2021	29-Jan-2021.
96697	ABB (Company Official)	Kings Mountain, NC	02-Feb-2021	01-Feb-2021.
96698	Gannett, Inc. (State Official)	Des Moines, IA	02-Feb-2021	01-Feb-2021.
96699	Godiva Chocolatier (American Job Center)	Saint Louis, MO	02-Feb-2021	01-Feb-2021.
96700	Victoria's Secret Stores Brand Management, LLC (State Official).	New York, NY	02-Feb-2021	01-Feb-2021.
96701	Joy Global Underground Mining LLC (State Official)	Bluefield, VA	02-Feb-2021	01-Feb-2021.
96702	TESCOM (State Official)	Elk River, MN	03-Feb-2021	02-Feb-2021.
96703	HCL America (State Official)	Tigard, OR	03-Feb-2021	02-Feb-2021.
96704	Houston Foam Plastics Inc. (State Official)	El Paso, TX	03-Feb-2021	02-Feb-2021.
96705	NCR (State Official)	Rogers, AR	04-Feb-2021	03-Feb-2021.
96706	Betsy & Adam Ltd. (Company Official)	New York, NY	04-Feb-2021	19-Jan-2021.
96707	Parker Hannifin Hydraulic Systems Division (State Official)	Kalamazoo, MI	04-Feb-2021	03-Feb-2021.
96708	United States Steel Corporation (State Official)	Boyers, PA	04-Feb-2021	01-Feb-2021.
96709	Concentrix CVG Customer Management Group Inc. (State Official).	Pueblo, CO	08-Feb-2021	05-Feb-2021.
96710	Boomerang Tube, Inc. (State Official)	Liberty, TX	08-Feb-2021	05-Feb-2021.
96711	GMCH Kokomo Assembly (State Official)	Kokomo, IN	08-Feb-2021	05-Feb-2021.

60 TAA PETITIONS INSTITUTED BETWEEN 2/1/21 AND 2/28/21—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
96712	Mitsubishi Heavy Industries Climate Control, Inc. (State Official).	Franklin, IN	08-Feb-2021	05-Feb-2021.
96713	Simple Finance Technology Corporation (State Official)	Portland, OR	09-Feb-2021	08-Feb-2021.
96714	TE Connectivity (Company Official)	Campbell, CA	09-Feb-2021	08-Feb-2021.
96715	TE Connectivity (Company Official)	San Jose, CA	09-Feb-2021	08-Feb-2021.
96716	Nidec Motor Corporation (State Official)	Paragould, AR	09-Feb-2021	08-Feb-2021.
96717	Comprehensive Decommissioning International (Company Official).	Plymouth, MA	10-Feb-2021	09-Feb-2021.
96718	Medtronic Plc (Company Official)	Haltom City, TX	10-Feb-2021	09-Feb-2021.
96719	Eaton Corporation (Company Official)	Eastanollee, GA	10-Feb-2021	09-Feb-2021.
96720	Capgemini America Inc. (State Official)	Rosemont, IL	11-Feb-2021	10-Feb-2021.
96721	EVRAZ Oregon Steel (State Official)	Portland, OR	15-Feb-2021	10-Feb-2021.
96722	Eaton Corporation (Company Official)	Watertown, WI	12-Feb-2021	11-Feb-2021.
96723	West Penn Wire (Company Official)	Washington, PA	12-Feb-2021	11-Feb-2021.
96724	Key Automotive of Florida, LLC d/b/a Joyson Safety Systems (America Job Center).	Lakeland, FL	12-Feb-2021	11-Feb-2021.
96725	Siemens Energy, Inc. (State Official)	Houston, TX	12-Feb-2021	11-Feb-2021.
96726	Zimmer, Inc. and Zimmer US, Inc. (State Official)	Warsaw, IN	12-Feb-2021	12-Feb-2021.
96727	Glenmoor Company (Company Official)	Harrison, OH	16-Feb-2021	16-Feb-2021.
96728	G-lll Leather Fashions INC (Company Official)	New York, NY	16-Feb-2021	30-Jan-2021.
96729	ABB (Worker)	West Burlington, IA	16-Feb-2021	12-Feb-2021.
96730	Philips (Company Official)	Mount Pleasant, PA	16-Feb-2021	15-Feb-2021.
96731	Parker Hannifin (State Official)	Tell City, IN	16-Feb-2021	15-Feb-2021.
96732	Breg, Inc. (Company Official)	Grand Prairie, TX	16-Feb-2021	13-Feb-2021.
96733	3M Technical Ceramics, Inc. (Formerly Ceradyne Inc.) (Worker).	Lexington, KY	17-Feb-2021	16-Feb-2021.
96734	Medtronic (State Official)	Boulder, CO	18-Feb-2021	17-Feb-2021.
96735	Lear Jet Bombardier (State Official)	Wichita, KS	18-Feb-2021	17-Feb-2021.
96736	Ricoh Electronics Inc. (State Official)	Tustin, CA	18-Feb-2021	17-Feb-2021.
96737	Philips Healthcare (State Official)	Gainesville, FL	18-Feb-2021	17-Feb-2021.
96738	Elementis Global LLC (Union Official)	South Charleston, WV	18-Feb-2021	10-Feb-2021.
96739	Versum Materials LLC (Worker)	Allentown, PA	19-Feb-2021	18-Feb-2021.
96740	Savant Systems, Inc. (Union Official)	Cleveland, OH	22-Feb-2021	19-Feb-2021.
96741	Eaton Corporation (Company Official)	Pewaukee, WI	22-Feb-2021	19-Feb-2021.
96742	Honeywell Aerospace (State Official)	South Bend, IN	22-Feb-2021	22-Feb-2021.
96743	Standard Insurance Company (State Official)	Portland, OR	23-Feb-2021	22-Feb-2021.
96744	Panasonic Avionics Corporation (State Official)	Bothell, WA	23-Feb-2021	16-Feb-2021.
96745	EFCO Corporation (State Official)	Springfield, MS	23-Feb-2021	22-Feb-2021.
96746	Ascension Technologies (State Official)	Troy, MI	24-Feb-2021	23-Feb-2021.
96747	Pierce Pacific Manufacturing Inc. (State Official)	Portland, OR	25-Feb-2021	24-Feb-2021.
96748	Kerry (State Official)	Fredericksburg, IA	25-Feb-2021	24-Feb-2021.
96749	Selmet, Inc. a CPP Company (State Official)	Albany, OR	25-Feb-2021	24-Feb-2021.
96750	Emerald Performance Materials (State Official)	Henry, IL	25-Feb-2021	24-Feb-2021.
96751	Flexitech, Inc. (Company Official)	Bloomington, IL	25-Feb-2021	25-Feb-2021.
96752	Microtechnologies (State Official)	Hicksville, NY	26-Feb-2021	25-Feb-2021.
96753	Baylor Scott & White Health (State Official)	Dallas, TX	26-Feb-2021	25-Feb-2021.

[FR Doc. 2021–06035 Filed 3–23–21; 8:45 am]
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DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligiblity 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 Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of February 1, 2021 through February 28, 2021. Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
94,983H	Workers of Insight Global, Inc., Accion Labs Inc., Adea Solutions, etc.	Boise, ID	6/27/2018	Worker Group Clarification.
95,201	United States Steel Corporation	Ecorse, MI	9/20/2018	Worker Group Clarification.
95,342	Siemens Government Technologies, Inc	Wellsville, NY	3/3/2019	Worker Group Clarification.

I hereby certify that the aforementioned determinations were issued during the period of February 1, 2021 through February 28, 2021. These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* 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 March 2021.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2021–06036 Filed 3–23–21; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) 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) number issued during the period of *February 1, 2021 through February 28, 2021.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated;

AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path

(i) the sales or production, or both, of such firm, have decreased absolutely;

AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services From a Foreign Country Path

(i) (I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm;

AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4));

AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section

222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C)of paragraph (1) is published in the **Federal Register**;

AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,651	Kerry Inc., Kentwood division, Kelly Services	Kentwood, MI	March 21, 2018.
94,953	Precision Wood Manufacturing	Bay City, OR	June 27, 2018.
95,431	Reyco Granning LLC, Onin Staffing, Scott Regional Technology Center	Mt. Vernon, MO	November 26, 2018.
95,489	Logansport Machine Company, Inc	Logansport, IN	December 17, 2018.
95,573	USM Acquisition, LLC, Clio Intermediate, LLC	Remus, MI	January 16, 2019.
95,775	Ridewell Corporation, Focus Workforce Management, Penmac Staffing	Springfield, MO	March 4, 2019.
95,833	Formtek Maine, Mestek, Inc	Clinton, ME	March 20, 2019.
95,886	Collins Hardwood Company, LLC, Richwood Sawmill, Collins Pine Company.	Richwood, WV	April 10, 2019.
95,915	Borbet Alabama Inc	Auburn, AL	May 6, 2019.
95,924	United States Steel Corporation, Granite City Works division	Granite City, IL	May 14, 2019.
95,965	U.S. Steel Seamless Tubular Operations, LLC, United States Steel Corporation.	Lorain, OH	June 22, 2019.
96,008	NCI Group, Inc., Metal Coaters Division, Cornerstone Buildings Brands, Inc.	Ambridge, PA	April 22, 2019.
96,137	Jones & Vining, Inc	Walnut Ridge, AR	August 12, 2019.
96,182	GE Transportation, A WABTEC Company	Erie, PA	September 29, 2020.
96,192	Multi-Color Corporation (MCC), Manpower, Kelly Services, Wisconsin Label Corporation, WS Packaging.	Franklin, PA	September 14, 2019.
96,504	Howell Metal Company, Copper Tube Division	New Market, VA	September 30, 2019.
96,522	Renaissance Manufacturing Group- Waukesha, LLC	Waukesha, WI	October 2, 2019.
96,650	Pacific Cast Technologies, a CPP Company, Consolidated Precision Products.	Albany, OR	December 22, 2019.
96,657	Hampden Papers, Inc	Holyoke, MA	December 29, 2019.
96,660	Precision Aluminum Inc	Wadsworth, OH	December 31, 2019.
96,680	JW Aluminum Company	Williamsport, PA	January 25, 2020.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,899	Les Lunes	Healdsburg, CA	June 11, 2018.
94,952	PepsiCo, Frito Lay North America, Corporate Headquarters, Open Systems, etc.	Plano, TX	June 27, 2018.
94,952A	PepsiCo, Corporate Headquarters, Open Systems, Pioneer Data Systems, Preemp, etc.	Plano, TX	June 27, 2018.
94,952B	PepsiCo, Corporate Headquarters, Information Technology, etc	Purchase, NY	June 27, 2018.
95,152	DeVry University, Inc., DeVry Central Group, Cogswell Education, Cloud9, Advanced Resources, etc.	Naperville, IL	September 3, 2018.
95,392	Aon Coporation, Aon, 24 Seven, Accenture, Allied Universal, Ambient Consulting, etc.	Lincolnshire, IL	November 19, 2018.
95,486	Hubbell Lighting, Inc., Employers Services of America, Inc	El Dorado, AR	December 16, 2018.
95,490	Lonza Walkersville Inc., Aerotek, Piper Companies	Walkersville, MD	December 17, 2018.
95,588	CalAmp Wireless Networks Corporation, Select Temporaries	Oxnard, CA	January 22, 2019.
95,597	LSC Communications US, LLC, Accion Performance, Accountemps, Accounting Principals, etc.	Mattoon, IL	January 23, 2019.

TA–W No.	Subject firm	Location	Impact date
95,614	LSC Communications Printing Company, Lifestyles Staffing	Strasburg, VA	January 24, 2019.
95,717	HCL America, Inc., Engineering, R&D Services, Digital Process Operations.	Providence, RI	February 20, 2019.
95,717A	HCL America, Inc., Engineering, R&D Services, Digital Process Operations.	Sunnyvale, CA	February 20, 2019.
95,717B	HCL America, Inc., Engineering, R&D Services, Digital Process Operations.	Appleton, WI	February 20, 2019.
95,767	Lufkin Industries LLC, Oilfield-Buck Creek division, Baker Hughes, Quinn Pumps.	Lufkin, TX	April 13, 2020.
95,778	RTR Industries, LLC	Anaheim, CA	March 5, 2019.
95,793	RealWear, Inc	Vancouver, WA	March 3, 2019.
95,832	F5 Networks, Inc., Systems Engineering Team	Liberty Lake, WA	March 17, 2019.
95,859	Olympus Corporation of the Americas, IT Infrastructure Organization, Agile1.	Center Valley, PA	March 31, 2019.
95,859A	Olympus Surgical Technologies America, IT Infrastructure Organization, Agile1.	Bartlett, TN	March 31, 2019.
95,859B	National Service Center East, IT Infrastructure Organization, Agile1	Bartlett, TN	March 31, 2019.
95,859C	Olympus Surgical Technologies America, IT Infrastructure Organization, Agile1.	Brooklyn Park, MN	March 31, 2019.
95,859D	Olympus Surgical Technologies America, IT Infrastructure Organization, Agile1.	Kennewick, WA	March 31, 2019.
95,859E	Olympus Surgical Technologies America & Olympus Latin America, IT Infrastructure Organization, Agile1.	Miami, FL	March 31, 2019.
95,859F	Olympus Surgical Technologies America, IT Infrastructure Organization, Agile1.	San Jose, CA	March 31, 2019.
95,859G	Olympus Surgical Technologies America, IT Infrastructure Organization, Agile1.	Norwalk, OH	March 31, 2019.
95,859H	Olympus Respiratory America, IT Infrastructure Organization, Agile1	Redmond, WA	March 31, 2019.
95,859I	Olympus Surgical Technologies America & Olympus America Inc., IT Infrastructure Organization, Agile1.	Southborough, MA	March 31, 2019.
95,859J	Olympus Scientific Solutions Americas & Olympus America Inc., Scientific Solutions Group, IT Infrastructure Organization, Agile1.	Waltham, MA	March 31, 2019.
95,908	Zurn Industries, LLC, Rexnord-Zurn Holdings, Inc., Rexnord LLC, 1801 Pittsburgh Avenue.	Erie, PA	May 4, 2020.
95,908A	Zurn Industries, LLC, Rexnord-Zurn Holdings, Inc., Rexnord LLC, 1302 Raspberry Street.	Erie, PA	May 4, 2020.
95,919	The Doe Run Resources Corporation, Doe Run Company, Herculaneum Smelting, JV Contracting, BRI, EOI, SMCI, etc.	Herculaneum, MO	May 13, 2019.
95,961	Allscripts Healthcare, LLC, Enterprise Information Systems/Paragon EHR, Allscripts, Tapfin, etc.	Broomfield, CO	May 4, 2019.
95,963	Donaldson Company Inc., Humera-Human Resources Recruiter, Diversified Service Network.	Frankfort, IN	June 4, 2019.
95,997	Panther Creek Mining, LLC, Blackhawk Mining, LLC	Dawes, WV	June 17, 2019.
96,039	ITT, Inc., Connect & Control Technologies, BIW-Connector Systems Division, Machinists.	Santa Rosa, CA	July 6, 2019.
96,090	NortonLifeLock, Inc., Symantec Corporation, PRO Unlimited, Inc	Springfield, OR	July 23, 2019.
96,093	Autoneum North America, Inc., Aerotek Staffing and Recruiting	Jeffersonville, IN	July 27, 2019.
96,121	Hewlett Packard Enterprise, AZURE Stack Engineering Team	Fort Collins, CO	August 4, 2019.
96,121A	Hewlett Packard Enterprise, AZURE Stack Engineering Team	Redmond, WA	August 4, 2019.
96,127	Levi Strauss & Co., Financial Shared Services Center, Randstadt Sourceright, Staffmark, etc.	Eugene, OR	August 6, 2019.
96,161	TE Connectivity, Kelly Services, Aerotek	Middletown, PA	October 6, 2020.
96,306	Itron Inc., Corporate Office	Liberty Lake, WA	September 18, 2019.
96,525	Domtar Paper Company, LLC, Kingsport Mill	Kingsport, TN	October 2, 2019.
96,547	A.M. Castle & Co., Wichita Branch	Wichita, KS	October 9, 2019.
96,557	Climax Molybdenum Company	Leadville, CO	October 14, 2019.
96,566	Asco Power Technologies	Independence, OH	October 20, 2019.
96,568	Cascades Tissue Group Pennsylvania Inc	Pittston, PA	October 20, 2019.
96,568A	Cascades Tissue Group Pennsylvania Inc	Ransom, PA	October 20, 2019.
96,627	Follett Corporation	Westchester, IL	November 20, 2019.
96,643	DUS Operating Inc. dba Dura Automotive Systems	Moberly, MO	December 11, 2019.
96,644	Rockwell Collins, Inc., Operations/Avionics	Decorah, IA	December 14, 2019.
96,649	Spectrum Brands Pet Group, Inc., Global Pet Care Division	Blacksburg, VA	December 17, 2019.
96,658	Hub City, Inc	Aberdeen, SD	December 28, 2019.
96,659	Halliburton Energy Services, Inc., Human Resources Employee Services Center.	Duncan, OK	December 30, 2019.
96,666	TPL Transition Services (F.K.A. Globe Fire Sprinkler Corp.)	Standish, MI	January 8, 2020.
96,670	Industrial C&S of P.R. LLC, Vieques Manufacturing Plant	Vieques,	January 12, 2020.
96,672	Ormco Corporation, Spark	Pomona, CA	January 14, 2020.
96,674	Star Forge LLC (dba Jorgensen Forge)	Tukwila, WA	January 5, 2021.
96,678	Medtronic/Minimed Distributing	San Antonio, TX	January 15, 2020.
96,679	Rexnord Industries, LLC	Grafton, WI	January 25, 2020.
96,682	AES Corporation	Peabody, MA	January 25, 2020.
96,684	Dayco Products, LLC	Williston, SC	January 26, 2020.

TA–W No.	Subject firm	Location	Impact date
96,685	Cartus Corporation, U.S Moving Services, File Set Up and International Compensation.	Danbury, CT	January 27, 2020.
96,687	Transform SR LLC, Home Services	Round Rock, TX	January 27, 2020.
96,689	Transform SR LLC, Home Services	San Antonio, TX	January 27, 2020.
96,693	Mylan Pharmaceuticals Inc	Morgantown, WV	June 21, 2020.
96,698	Gannett, Inc., designIQ—Ad Operations	Des Moines, IA	February 1, 2020.
96,700	Victoria's Secret Stores Brand Management, LLC, Prototype Room	New York, NY	February 1, 2020.
96,701	Joy Global Underground Mining LLC, a wholly owned subsidiary of Komatsu Mining Corp.	Bluefield, VA	February 1, 2020.
96,702	TESCOM, a wholly owned subsidiary of Emerson Electric Co	Elk River, MN	February 2, 2020.
96,703	HCL America	Tigard, OR	February 2, 2020.
96,704	Houston Foam Plastics Inc	El Paso, TX	February 2, 2020.
96,705	NCR, Bentonville	Rogers, AR	February 3, 2020.
96,709	Concentrix CVG Customer Management Group Inc	Pueblo, CO	February 5, 2020.
96,712	Mitsubishi Heavy Industries Climate Control, Inc	Franklin, IN	August 17, 2021.
96,714	TE Connectivity	Campbell, CA	February 8, 2020.
96,715	TE Connectivity	San Jose, CA	February 8, 2020.
96,718	Medtronic Plc, Operations	Haltom City, TX	February 9, 2020.
96,719	Eaton Corporation, Fluid and Electrical Distribution Division	Eastanollee, GA	February 9, 2020.
96,724	Key Automotive of Florida, LLC d/b/a Joyson Safety Systems	Lakeland, FL	February 11, 2020.
96,725	Siemens Energy, Inc	Houston, TX	February 11, 2020.
96,727	Glenmoor Company, a division of ILSCO LLC ILSCO LLC	Harrison, OH	February 16, 2020.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,870	Timken Belts SMO LLC, Timken, Penmac	Springfield, MO	June 3, 2018.
95,174	Jacobson Warehouse Company, Inc., XPO Logistics Inc	Montgomery, IL	September 10, 2018.
95,248	L&P Materials Manufacturing, Inc	Jacksonville, FL	October 2, 2018.
95,401	GKN Sinter Metals, Spherion, Manpower	Emporium, PA	November 20, 2018.
95,931	Royal Engineered Composites, Inc	Minden, NE	May 21, 2019.
96,138	Mosey Manufacturing Co. Inc., Plant 2	Richmond, IN	August 12, 2019.
96,301	Advanced Welding Technologies	Erie, PA	September 22, 2019.
96,303	WABTEC (GE Transportation Grove City), Locomotive, Westinghouse Airbrake, WABTEC US Rail, 1503 W. Main.	Grove City, PA	June 16, 2020.
96,303A	WABTEC (GE Transportation Grove City), Locomotive, Westinghouse Airbrake, WABTEC US Rail, 660 Barkeyville Road.	Grove City, PA	June 16, 2020.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
96,524	American Woodmark, Allegany Manufacturing Plant	Cumberland, MD	April 17, 2019.
96,540	Vestas Towers America Inc., a subsidiary of Vestas Wind Systems A/S	Pueblo, CO	August 25, 2019.
96,668	Bonney Forge Texas, L.P/WFI International	Houston, TX	December 2, 2019.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
94,952C	PepsiCo, Frito Lay North America, Technology Process Center, Open Systems, etc.	Dallas, TX.	
95,036	Can Clay Corp., Action Contractual & Staffing	Cannelton, IN.	
95,142	TL Clothing, Inc	Los Angeles, CA.	
95,218	Whitesell Packing, Onin Staffing, Snelling Staffing	Muscle Shoals, AL.	
95,388	Goodwin Brothers Printing Company	St. Louis, MO.	

TA–W No.	Subject firm	Location	Impact date
95,406	Hikvision USA Inc., Hangzhou Hikvision Digital Technology Co., Ltd	City of Industry, CA.	
95,443	Western Panel Manufacturing Inc	Eugene, OR.	
95,467	Wisconsin Central Ltd., Canadian National Railway Company	Proctor, MN.	
95,467A	Wisconsin Central Ltd., Canadian National Railway Company	Homewood, IL.	
95,571	Pierce Pacific, Pierce Denharco, Long Reach Division	Portland, OR.	
95,698	Wittrock Enterprises LLC	Greensburg, IN.	
95,754	United States Steel Corporation, Great Lakes Works (Dearborn EGL) Division.	Dearborn, MI.	
95,758	Southern Graphic Systems, LLC	Pittsburgh, PA.	
95,797	Concentrix CVG Customer Management Group, Inc., Concentrix CVG Corporation.	Laredo, TX.	
95,830	Wayzata Home Products	Edina, MN.	
95,831	Basic Energy Services	San Angelo, TX.	
95,873	Palmer of Texas Tanks, Inc., Synalloy Corporation, J&M Manufacturing	Andrews, TX.	
95,899	Art Van Furniture, LLC	Working in Multiple Cities Throughout Michigan, MI.	
95,899A	Art Van Furniture, LLC	Working in Multiple Cities Throughout Missouri, MO.	
95,899B	Art Van Furniture, LLC	O'Fallon, IL.	
95,899C	Pure Sleep Franchising, LLC, Art Van Furniture, LLC	Working in Multiple Cities Throughout Michigan, MI.	
95,899D	Pure Sleep Franchising, LLC, Art Van Furniture, LLC	Working in Multiple Cities Throughout Illinois, IL.	
95,899E	Pure Sleep Franchising, LLC, Art Van Furniture, LLC	Working in Multiple Cities Throughout Ohio, OH.	
95,899F	Scott Shuptrine Interiors, Art Van Furniture, LLC	Working in Multiple Cities Throughout Michigan, MI.	
95,899G	Wolf Furniture, Art Van Furniture, LLC	Working in Multiple Cities Throughout Maryland, MD.	
95,899H	Wolf Furniture, Art Van Furniture, LLC	Leesburg, VA.	
95,899I	Levin Furniture, Art Van Furniture, LLC	Working in Multiple Cities Throughout Ohio, OH.	
95,916	Integrated Global Services, Inc., Tradesman International	Richmond, VA.	
95,982	Gannett Publishing Services, LLC, Gannett Satellite Information Network, Forge Industrial Staffing, etc.	Indianapolis, IN.	
96,014	The Bank of New York Mellon, Technology Strategy and Business Management, Pride Technologies, etc.	New York, NY.	
96,014A	The Bank of New York Mellon, Technology Strategy and Business Management, Pride Technologies, etc.	Oriskany, NY.	
96,017	FXI, Inc., FXI Holdings, Inc., Adecco, Peoplelink	Corry, PA.	
96,049	AK Coal Resources, Inc., AK Steel division, AK Steel Corporation	Friedens, PA.	
96,074	Saulsbury Industries Inc	Henderson, TX.	
96,097	Pacific Paper Products, Elite Staffing, Express Employment Professionals.	Memphis, TN.	
96,102	Sonic	Memphis, TN.	
96,103	State Street Bank & Trust Co., Compliance AML division, State Street Corporation.	Boston, MA.	
96,109	KRA International, Business Unit 128, Patrick Industries	Mishawaka, IN.	
96,181	Applied Engineering, Inc	Yankton, SD.	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
96,541	Tobul Accumulators	Bamberg, SC.	
96,697	ABB	Kings Mountain, NC.	

The following determinations terminating investigations were issued in cases where the petition regarding the investigation has been deemed invalid.

TA–W No.	Subject firm	Location	Impact date
95,782	Ultra Clean Technology	Hayward, CA.	
96,125	Indiana's Goodwill Ambassador, Inc	Muncie, IN.	

TA–W No.	Subject firm	Location	Impact date
96,691	Bed Bath and Beyond	Ocoee, FL.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
95,718	HCL America, Inc., Engineering, R&D Services, Digital Process Operations.	Sunnyvale, CA.	
95,765	HCL America, Inc., Engineering, R&D Services, Digital Process Operations.	Appleton, WI.	
95,825	Steelcase Inc	Grand Rapids, MI.	
95,867	Siemens Government Technologies, Inc., Dresser Rand, Walker Services, IT Tech Connexion Systems, G4S-Buffalo, etc.	Wellsville, NY.	
96,031	Beyondsoft International, HP Inc., Imaging, Printing and Solutions Business Group.	Boise, ID.	
96,686	Ormco Corporation, Spark	Pomona, CA.	

I hereby certify that the aforementioned determinations were issued during the period of *February 1, 2021 through February 28, 2021.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/petitioners/taa_search_form.cfm* 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 March 2021.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2021–06034 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Experience Rating Report.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by May 24, 2021.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Edward M. Dullaghan by telephone at (202) 693–2927 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *dullaghan.edward@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW, Francis Perkins Building, Room S–4524, Washington, DC 20210; by email: *dullaghan.edward@dol.gov;* or by fax (202) 696–3975.

FOR FURTHER INFORMATION CONTACT: Kevin Stapleton by telephone at (202) 693–3009 (this is not a toll-free number) or by email at *stapleton.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The data submitted annually on the ETA 204 report enables ETA to project revenues for the Unemployment Insurance (UI) program on a state-by-state basis and to measure the variations in assigned contribution rates that result from different experience rating systems. Used in conjunction with other data, the ETA 204 report assists in determining the effects of certain factors (*e.g.,* stabilization, expansion, or contraction in employment, etc.) on the unemployment experience of various groups of employers. The data also provide an early signal for potential solvency problems and are useful in analyzing factors that give rise to these potential problems and permit an evaluation of the effectiveness of the various approaches available to correct the detected problems. The report collects annual information about the taxation efforts in states relative to both taxable and total wages and allows comparison between states. Further, the data are key components to the Significant Tax Measures Report. The Significant Tax Measures Report provides the information necessary to evaluate and compare state UI tax systems. 44 U.S.C. 3506(c)(2)(A) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown

in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0164.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without change.

Title of Collection: Experience Rating Report.

Form: ETA–204.

OMB Control Number: 1205–0164.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Annual.

Total Estimated Annual Responses: 53.

Estimated Average Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 27 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Suzan G. LeVine,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–06039 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Workforce Innovation and Opportunity Act Joint Quarterly Narrative Performance Report

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this ETA-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 23, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 3101) authorizes this information collection. This ICR allows ETA's Senior Community Service Employment Program (SCSEP) to perform data validation on data collected and reported to ETA on program activities and outcomes; and provides a streamlined WIOA Joint Quarterly Narrative Performance Report (Joint QNR) for several grant programs. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 7, 2020 (85 FR 63297).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Workforce Innovation and Opportunity Act Joint Quarterly Narrative Performance Report.

OMB Control Number: 1205–0448.

Affected Public: State, Local, and Tribal Governments; Private Sector—Not-for-profit institutions.

Total Estimated Number of Respondents: 1,030.

Total Estimated Number of Responses: 4,120.

Total Estimated Annual Time Burden: 50,594 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: March 12, 2021.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2021–06040 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Material Hoists, Personnel Hoists and Elevators

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of

Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 23, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The information collection requirements contained in the Standard on Material Hoists, Personnel Hoists, and Elevators (29 CFR 1926.552) are designed to protect workers who operate and work around personnel hoists. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 12, 2020 (85 FR 71947).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Material Hoists, Personnel Hoists and Elevators.

OMB Control Number: 1218–0231.

Affected Public: Private Sector, Businesses or other for-profits.

Total Estimated Number of Respondents: 10,047.

Total Estimated Number of Responses: 37,451.

Total Estimated Annual Time Burden: 10,047 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Crystal Rennie,

Senior PRA Analyst.

[FR Doc. 2021–06043 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0042]

TUV Rheinland of North America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for TUV Rheinland of North America, Inc., as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on March 24, 2021.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV Rheinland of North America, Inc. (TUVRNA), as a NRTL. TUVRNA's expansion covers the addition of fourteen test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details the NRTL scope of recognition. These pages are available from the agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVRNA submitted two applications, one dated April 28, 2017 (OSHA–2007–0042–0034) and another dated August 21, 2017 (OSHA–2007–0042–0035), to expand recognition to include the addition of fourteen test standards. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these applications.

OSHA published the preliminary notice announcing TUVRNA's expansion applications in the **Federal Register** on February 3, 2021 (86 FR

8041). The agency requested comments by February 18, 2021, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of TUVRNA's scope of recognition.

To obtain or review copies of all public documents pertaining to TUVRNA's application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Docket No. OSHA–2007–0042 contains all materials in the record concerning TUVRNA's recognition. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVD–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service.

II. Final Decision and Order

OSHA staff examined TUVRNA's expansion applications, their capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that TUVRNA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant TUVRNA's scope of recognition. OSHA limits the expansion of TUVRNA's recognition to testing and certification of products for demonstration of conformance to the test standard listed in Table 1 below.

TABLE 1—LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN TUVRNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 9540	Standard for Energy Storage Systems and Equipment.
UL 283	Air Fresheners and Deodorizers.
UL 962	Household and Commercial Furnishings.
UL 2089	Vehicle Battery Adapters.
UL 2738	Standard for Induction Power and Transmitters and Receivers for Use with Low Energy Products.
UL 8750	Standard for Light Emitting Diode (LED) Equipment for Use in Lighting Products.
UL 8752	Organic Light Emitting Diode (LED) Panels.
UL 60950–21	Information Technology Equipment—Safety—Part 21: Remote Power Feeding.
UL 60950–22	Information Technology Equipment—Safety—Part 22: Equipment to be Installed Outdoors.
UL 60950–23	Information Technology Equipment—Safety—Part 23: Large Data Storage Equipment.
UL 61010–2–030	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–030: Particular Requirements for Testing and Measuring Circuits.
UL 61010–031	Electrical Equipment for Measurement, Control and Laboratory Use—Part 031: Safety Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.
UL 61010–2–81	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and other Purposes.
UL 61010–2–091	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–091: Particular Requirements for Cabinet X-Ray Systems.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, TUVRNA must abide by the following conditions of the recognition:

1. TUVRNA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. TUVRNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. TUVRNA must continue to meet the requirements for recognition, including all previously published conditions on TUVRNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of TUVRNA, subject to the limitations and conditions specified above.

III. Authority and Signature

James S. Frederick, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on March 16, 2021.

James S. Frederick,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–06037 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0043]

TUV SUD America, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for TUV SUD America, Inc. (TUVAM) as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective on March 24, 2021.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of TUV SUD America, Inc. (TUVAM), as a NRTL. TUVAM's expansion covers the addition of eight recognized test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification.

The agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details its scope of recognition. These pages are available from the agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVAM submitted an application, dated August 29, 2019 (OSHA–2007–0043–0032), to expand their recognition to include eight additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an on-site review related to this application.

OSHA published the preliminary notice announcing TUVAM's expansion application in the **Federal Register** on February 3, 2021 (86 FR 8039). The agency requested comments by February 18, 2021, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of TUVAM's scope of recognition.

To obtain or review copies of all public documents pertaining to the TUVAM expansion application, go to *www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Docket No. OSHA–2007–0043 contains all materials in the record concerning TUVAM's recognition. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service.

II. Final Decision and Order

OSHA staff examined TUVAM's expansion application, and examined other pertinent information. Based on review of this evidence, OSHA finds that TUVAM meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limitation and conditions. OSHA, therefore, is proceeding with this final notice to grant TUVAM's scope of recognition. OSHA limits the expansion of TUVAM's recognition to testing and certification of products for demonstration of conformance to the test standards listed in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVAM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
ASME A17.5	Elevators and Escalator Electrical Equipment.
UL 2738	Standard for Induction Power Transmitters and Receivers for Use With Low Energy Products.
UL 60745–2–1	Particular Requirements for Drills and Impact Drills.
UL 60745–2–3	Particular Requirements for Grinders, Polishers and Disk-Type Sanders.
UL 60745–2–5	Particular Requirements for Circular Saws.
UL 60745–2–14	Particular Requirements for Planers.
UL 60745–2–17	Particular Requirements for Routers and Trimmers.
UL 61800–5–1	Adjustable Speed Electrical Power Drive Systems—Part 5–1: Safety Requirements—Electrical, Thermal and Energy.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, TUVAM also must abide by the following conditions of the recognition:

1. TUVAM must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. TUVAM must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. TUVAM must continue to meet the requirements for recognition, including all previously published conditions on TUVAM's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of TUVAM, subject to the limitations and conditions specified above.

IV. Authority and Signature

James S. Frederick, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on March 18, 2021.

James S. Frederick,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–06038 Filed 3–23–21; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 1 meeting of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate:

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The Upcoming Meeting Is

Mayors' Institute on City Design (review of applications): This meeting will be closed.

Date and time: April 16, 2021, 2:30 p.m. to 4:30 p.m.

Dated: March 19, 2021.

Sherry P. Hale

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2021–06032 Filed 3–23–21; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Request for Recommendations for Membership on Directorate and Office Advisory Committees

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) requests recommendations for membership on its scientific and technical Federal advisory committees. Recommendations should consist of the name of the submitting individual, the organization or the affiliation providing the member nomination, the name of the recommended individual, the recommended individual's curriculum vita, an expression of the individual's interest in serving, and the following recommended individual's contact information: Employment address, telephone number, fax number, and email address. Self-recommendations are accepted. If you would like to make a membership recommendation for any of the NSF scientific and technical Federal advisory committees, please send your recommendation to the appropriate committee contact person listed in the chart below.

ADDRESSES: The mailing address for the National Science Foundation is 2415 Eisenhower Avenue, Alexandria, VA 22314. Web links to individual committee information may be found on the NSF website: NSF Advisory Committees.

SUPPLEMENTARY INFORMATION: Each Directorate and Office has an external advisory committee that typically meets twice a year to review and provide advice on program management; discuss current issues; and review and provide advice on the impact of policies, programs, and activities in the disciplines and fields encompassed by the Directorate or Office. In addition to Directorate and Office advisory committees, NSF has several committees that provide advice and recommendations on specific topics including astronomy and astrophysics; environmental research and education; equal opportunities in science and engineering; cyberinfrastructure; international science and engineering; and business and operations.

A primary consideration when formulating committee membership is recognized knowledge, expertise, or demonstrated ability.[1] Other factors that may be considered are balance among diverse institutions, regions, and groups underrepresented in science, technology, engineering, and mathematics. Committee members serve for varying term lengths, depending on the nature of the individual committee. Although we welcome the recommendations we receive, we regret that NSF will not be able to acknowledge or respond positively to each person who contacts NSF or has been recommended. NSF intends to publish a similar notice to this on an annual basis. NSF will keep recommendations active for 12 months from the date of receipt.

The chart below is a listing of the committees seeking recommendations for membership. Recommendations should be sent to the contact person identified below. The chart contains web addresses where additional information about individual committees is available.

[1] Federally registered lobbyists are not eligible for appointment to these Federal advisory committees.

Advisory committee	Contact person
Advisory Committee for Biological Sciences, *https://www.nsf.gov/bio/advisory.jsp*.	Brent Miller, Directorate for Biological Sciences; phone: (703) 292–8400; email: *bmiller@nsf.gov*; fax: (703) 292–2988.
Advisory Committee for Computer and Information Science and Engineering, *https://www.nsf.gov/cise/advisory.jsp*.	Brenda Williams, Directorate for Computer and Information Science and Engineering; phone: (703) 292–4554; email: *bwilliam@nsf.gov*; fax: (703) 292–9454.
Advisory Committee for Cyberinfrastructure, *https://www.nsf.gov/cise/aci/advisory.jsp*.	Carl Anderson, Division of Advanced Cyberinfrastructure; phone: (703) 292–4545; email: *cnanders@nsf.gov*; fax: (703) 292–9060.
Advisory Committee for Education and Human Resources, *https://www.nsf.gov/ehr/advisory.jsp*.	Nafeesa Owens, Directorate for Education and Human Resources; phone: (703) 292–8600; email: *nowens@nsf.gov*; fax: (703) 292–9179.
Advisory Committee for Engineering, *https://www.nsf.gov/eng/advisory.jsp*.	Cecile Gonzalez, Directorate for Engineering; phone: (703) 292–8300; email: *cjgonzal@nsf.gov*; fax: (703) 292–9467.
Advisory Committee for Geosciences, *https://www.nsf.gov/geo/advisory.jsp*.	Melissa Lane, Directorate for Geosciences: phone: (703) 292–8500; email: *mlane@nsf.gov*; fax: (703) 292–9042.
Advisory Committee for International Science and Engineering, *https://www.nsf.gov/od/oise/advisory.jsp*.	Christopher Street, Office of International Science and Engineering, phone: (703) 292–8568; email: *ac-ise@nsf.gov* fax: (703) 292–9481.
Advisory Committee for Mathematical and Physical Sciences, *https://www.nsf.gov/mps/advisory.jsp*.	Angela Harris, Directorate for Mathematical and Physical Sciences; phone: (703) 292–8800; email: *amharris@nsf.gov*; fax: (703) 292–9151.
Advisory Committee for Social, Behavioral & Economic Sciences, *https://www.nsf.gov/sbe/advisory.jsp*.	Deborah Olster, Directorate for Social, Behavioral & Economic Sciences; phone: (703) 292–8700; email: *dholster@nsf.gov*; fax: (703) 292–9083.
Advisory Committee for Polar Programs, *https://www.nsf.gov/geo/opp/advisory.jsp*.	Andrew Backe, Office of Polar Programs; phone: (703) 292–2454; email: *abacke@nsf.gov*; fax: (703) 292–9081.
Committee on Equal Opportunities in Science and Engineering, *https://www.nsf.gov/od/oia/activities/ceose/*.	Bernice Anderson, Office of Integrative Activities; phone: (703) 292–8040; email: *banderso@nsf.gov*; fax: (703) 292–9040.
Advisory Committee for Business and Operations, *https://www.nsf.gov/oirm/bocomm/*.	Jeffrey Rich, Office of Information and Resource Management; phone: (703) 292–8100; email: *jrich@nsf.gov*; fax: (703) 292–9369.
Advisory Committee for Environmental Research and Education, *https://www.nsf.gov/ere/ereweb/advisory.jsp*.	Gayle Pugh Lev, Office of Integrative Activities; phone: (703) 292–8040; email: *acere-poc@nsf.gov*; fax: (703) 292–9040.
Astronomy and Astrophysics Advisory Committee, *https://www.nsf.gov/mps/ast/aaac.jsp*.	Donna O'Malley, Division of Astronomical Sciences; phone: (703) 292–7319; email: *domalley@nsf.gov*; fax: (703) 292–9452.
STEM Education Advisory Panel, *https://nsf.gov/ehr/STEMEdAdvisory.jsp*.	Nafeesa Owens, Directorate for Education and Human Resources; Please visit website to submit recommendations.

Dated: March 18, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021–06005 Filed 3–23–21; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–391; NRC–2021–0072]

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to provide comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–96, issued to Tennessee Valley Authority (TVA), for operation of the Watts Bar Nuclear Plant (Watts Bar or WBN), Unit 2. The proposed amendment would revise the Watts Bar Updated Final Safety Analysis Report (UFSAR) to apply a temperature adjustment to the growth rate calculation used to determine the end-of-cycle distribution of indications of axial outer diameter stress corrosion cracking (ODSCC) at steam generator (SG) tube support plates in support of the Watts Bar, Unit 2 operational assessment. The proposed revision to the UFSAR would apply to Unit 2 only. For this amendment request, the NRC proposes to determine that it involves no significant hazards consideration. Because this amendment request contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Submit comments by April 23, 2021. Requests for a hearing or petition for leave to intervene must be filed by May 24, 2021. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by April 5, 2021.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0072. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kimberly Green, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1627, email: *Kimberly.Green@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0072 when contacting the NRC about

the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0072.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ''Expedited Application for Approval to Use a Growth Rate Temperature Adjustment When Implementing the Generic Letter [GL] 95–05 Analysis for the Watts Bar Nuclear Plant (WBN), Unit 2 Steam Generators (WBN TS–391–21–002),'' is available in ADAMS under Accession No. ML21056A623.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0072 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering issuance of an amendment to Facility Operating License No. NPF–96, issued to TVA, for operation of the WBN, Unit 2, located in Rhea County, Tennessee.

The proposed amendment would revise the Watts Bar UFSAR to apply a temperature adjustment to the growth rate calculation used to determine the end-of-cycle distribution of indications of axial ODSCC at SG tube support plates in support of the Watts Bar, Unit 2 operational assessment. The proposed revision to the UFSAR would apply to Unit 2 only.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

The use of the proposed temperature adjustment to the growth rate does not result in a significant increase in the main steam line break (MSLB) tube burst probability because it will be utilized in concert with accepted methodology that predicts a conservative operational cycle in terms of calendar days in compliance with the [Generic Letter] GL 95–05 acceptance criteria for tube burst in the faulted SG of less than or equal to 1×10^{-2} and results in primary-to-secondary leakage within acceptable limits during a postulated MSLB event. The use of the proposed temperature adjustment to the growth rate also does not result in a significant increase in the consequence of any accidents involving an MSLB.

Therefore, TVA concludes that this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The use of the proposed temperature adjustment to the growth rate calculation concerns the SG tubes and can only affect the steam generator tube rupture accident during a postulated MSLB event. Its use results in an end-of-cycle (EOC) distribution of indications that remains in compliance with the GL 95–05 acceptance criteria for conditional tube burst in the faulted SG of less than or equal to 1×10^{-2} and results in primary-to-secondary leakage within acceptable limits during a postulated MSLB event.

Therefore, TVA concludes that this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The use of the proposed temperature adjustment to the growth rate calculation for the WBN Unit 2 operational assessment does not involve a significant reduction in a margin of safety. The applicable margin of safety potentially impacted is the WBN Unit 2 TS 5.9.9 projected EOC conditional probability of burst. The use of the proposed temperature adjustment to the growth rate calculation does not result in a significant increase in the calculated MSLB tube burst probability because it will be utilized in concert with accepted methodology that predicts a conservative operational cycle in terms of calendar days in compliance with the GL 95–05 acceptance criteria for conditional tube burst in the faulted SG of less than or equal to 1×10^{-2} and results in primary-to-secondary leakage within acceptable limits during a postulated MSLB event.

Therefore, TVA concludes that this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if

circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d), the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants

may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. EST on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., EST, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated February 25, 2021.

Attorney for licensee: David Fountain, Executive Vice President and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Hearings and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,*

respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: March 18, 2021.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2021–06033 Filed 3–23–21; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91357; File No. SR–NYSE–2021–05]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Co-Location Services and Fee Schedule To Add Two Partial Cabinet Solution Bundles

March 18, 2021.

On January 19, 2021, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's co-location rules to add two partial cabinet solution bundles. The proposed rule change was published for comment in the **Federal Register** on February 5, 2021.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 22, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 6, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2021–05).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06004 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91358; File No. SR–NYSEAMER–2021–04]

Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Co-Location Services and Fee Schedule To Add Two Partial Cabinet Solution Bundles

March 18, 2021.

On January 19, 2021, NYSE American LLC (''NYSE American'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's co-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91034 (February 1, 2021), 86 FR 8443 (SR–NYSE–2021–05).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

location rules to add two partial cabinet solution bundles. The proposed rule change was published for comment in the **Federal Register** on February 5, 2021.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 22, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 6, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEAMER–2021–04).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–05999 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* Securities Exchange Act Release No. 91035 (February 1, 2021), 86 FR 8449 (SR–NYSEAMER–2021–04).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91355; File No. SR–NYSEAMER–2021–05]

Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Amend Rule 970NY and Rule 970.1NY To Eliminate the Use of Dark Series on the Exchange

March 18, 2021.

On January 26, 2021, NYSE American LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to eliminate the exclusion of inactive or ''dark'' series from the requirements of Rule 970NY (Firm Quotes). In addition, the Exchange proposes to delete Rule 970.1NY (Quote Mitigation) in its entirety. The proposed rule change was published for comment in the **Federal Register** on February 8, 2021.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 25, 2021.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates May 9, 2021 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEAMER–2021–05).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–05997 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91039 (February 2, 2021), 86 FR 8659.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–472, OMB Control No. 3235–0531]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 0–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l *et. seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previous approved collection of information discussed below.

The Investment Company Act of 1940 (the ''Act'')[1] establishes a comprehensive framework for regulating the organization and operation of investment companies (''funds''). A principal objective of the Act is to protect fund investors by addressing the conflicts of interest that exist between funds and their investment advisers and other affiliated persons. The Act places significant responsibility on the fund board of directors in overseeing the operations of the fund and policing the relevant conflicts of interest.[2]

In one of its first releases, the Commission exercised its rulemaking authority pursuant to sections 38(a) and 40(b) of the Act by adopting rule 0–1 (17 CFR 270.0–1).[3] Rule 0–1, as subsequently amended on numerous occasions, provides definitions for the terms used by the Commission in the rules and regulations it has adopted pursuant to the Act. The rule also contains a number of rules of

[1] 15 U.S.C. 80a.

[2] For example, fund directors must approve investment advisory and distribution contracts. *See* 15 U.S.C. 80a–15(a), (b), and (c).

[3] Investment Company Act Release No. 4 (Oct. 29, 1940) (5 FR 4316 (Oct. 31, 1940)). Note that rule 0–1 was originally adopted as rule N–1.

construction for terms that are defined either in the Act itself or elsewhere in the Commission's rules and regulations. Finally, rule 0–1 defines terms that serve as conditions to the availability of certain of the Commission's exemptive rules. More specifically, the term ''independent legal counsel,'' as defined in rule 0–1, sets out conditions that funds must meet in order to rely on any of ten exemptive rules (''exemptive rules'') under the Act.[4]

The Commission amended rule 0–1 to include the definition of the term ''independent legal counsel'' in 2001.[5] This amendment was designed to enhance the effectiveness of fund boards of directors and to better enable investors to assess the independence of those directors. The Commission also amended the exemptive rules to require that any person who serves as legal counsel to the independent directors of any fund that relies on any of the exemptive rules must be an ''independent legal counsel.'' This requirement was added because independent directors can better perform the responsibilities assigned to them under the Act and the rules if they have the assistance of truly independent legal counsel.

If the board's counsel has represented the fund's investment adviser, principal underwriter, administrator (collectively, ''management organizations'') or their ''control persons'' [6] during the past two years, rule 0–1 requires that the board's independent directors make a determination about the adequacy of the counsel's independence. A majority of the board's independent directors are required to reasonably determine, in the exercise of their judgment, that the counsel's prior or current representation of the management organizations or their control persons was sufficiently limited to conclude that it is unlikely to adversely affect the counsel's professional judgment and legal representation. Rule 0–1 also requires that a record for the basis of this determination is made in the minutes of the directors' meeting. In addition, the independent directors must have obtained an undertaking from the counsel to provide them with the information necessary to make their determination and to update promptly that information when the person begins to represent a management organization or control person, or when he or she materially increases his or her representation. Generally, the independent directors must re-evaluate their determination no less frequently than annually.

Any fund that relies on one of the exemptive rules must comply with the requirements in the definition of ''independent legal counsel'' under rule 0–1. We assume that approximately 3035 funds rely on at least one of the exemptive rules annually.[7] We further assume that the independent directors of approximately one-third (1,010) of those funds would need to make the required determination in order for their counsel to meet the definition of independent legal counsel.[8] We estimate that each of these 1,010 funds would be required to spend, on average, 0.75 hours annually to comply with the recordkeeping requirement associated with this determination, for a total annual burden of approximately 758 hours. Based on this estimate, the total annual cost for all funds' compliance with this rule is approximately $175,523. To calculate this total annual cost, the Commission staff assumed that approximately two-thirds of the total annual hour burden (505 hours) would be incurred by a compliance manager with an average hourly wage rate of $312 per hour,[9] and one-third of the annual hour burden (253 hours) would be incurred by compliance clerk with an average hourly wage rate of $71 per hour.[10]

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.

The public may view background documentation for this information collection at the following website: >*www.reginfo.gov*<. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) >*www.reginfo.gov/public/do/PRAMain*< and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06013 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

[4] The relevant exemptive rules are: Rule 10f–3 (17 CFR 270.10f–3), rule 12b–1 (17 CFR 270.12b–1), rule 15a–4(b)(2) (17 CFR 270.15a–4(b)(2)), rule 17a–7 (17 CFR 270.17a–7), rule 17a–8 (17 CFR 270.17a–8), rule 17d–1(d)(7) (17 CFR 270.17d–1(d)(7)), rule 17e–1(c) (17 CFR 270.17e–1(c)), rule 17g–1 (17 CFR 270.17g–1), rule 18f–3 (17 CFR 270.18f–3), and rule 23c–3 (17 CFR 270.23c–3).

[5] *See* Role of Independent Directors of Investment Companies, Investment Company Act Release No. 24816 (Jan. 2, 2001) (66 FR 3735 (Jan. 16, 2001)).

[6] A ''control person'' is any person—other than a fund—directly or indirectly controlling, controlled by, or under common control, with any of the fund's management organizations. *See* 17 CFR 270.01(a)(6)(iv)(B).

[7] Based on statistics compiled by Commission staff, we estimate that there are approximately 3,373 funds that could rely on one or more of the exemptive rules (this figure reflects the three-year average of open-end and closed-end funds (3,269) and business development companies (104)). Of those funds, we assume that approximately 90 percent (3,035) actually rely on at least one exemptive rules annually.

[8] We assume that the independent directors of the remaining two-thirds of those funds will choose not to have counsel, or will rely on counsel who has not recently represented the fund's management organizations or control persons. In both circumstances, it would not be necessary for the fund's independent directors to make a determination about their counsel's independence.

[9] The estimated hourly wages used in this PRA analysis were derived from the Securities Industry and Financial Markets Association Reports on Management and Professional Earnings in the Securities Industry (2013) (modified to account for an 1800-hour work year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead) (adjusted for inflation), and Office Salaries in the Securities Industry (2013) (modified to account for an 1800-hour work year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead) (adjusted for inflation).

[10] (505 × $312/hour) + (253 × $71/hour) = $175,523.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91359; File No. SR–NYSE–2020–96]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Its Rules Establishing Maximum Fee Rates To Be Charged by Member Organizations for Forwarding Proxy and Other Materials to Beneficial Owners

March 18, 2021.

I. Introduction

On December 2, 2020, New York Stock Exchange LLC (''NYSE'' or

''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete the maximum fee rates for forwarding proxy and other materials to beneficial owners set forth in NYSE Rules 451 and 465 and Section 402.10 of the NYSE Listed Company Manual (''Manual''), and establish in their place a requirement for member organizations to comply with any schedule of approved charges set forth in the rules of any other national securities exchange or association of which such member organization is a member. The proposed rule change was published for comment in the **Federal Register** on December 21, 2020.[3] On February 1, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposal

NYSE Rules 451 and 465, and the related provisions in Section 402.10 of the Manual, require NYSE member organizations that hold securities for beneficial owners in street name to solicit proxies from, and deliver proxy and issuer communication materials to, beneficial owners on behalf of issuers.[7] For this service, issuers reimburse NYSE member organizations for out-of-pocket, reasonable clerical, postage and other expenses incurred for a particular distribution.[8] This reimbursement structure stems from SEC Rules 14b–1 and 14b–2 under the Act,[9] which impose obligations on companies and nominees to ensure that beneficial owners receive proxy materials. These rules require companies to send their proxy materials to broker-dealers or banks, as nominees that hold securities in street name, for forwarding to beneficial owners, and to pay nominees for reasonable expenses, both direct and indirect, incurred in providing proxy information to beneficial owners.[10] The Commission's rules do not specify the fees that nominees can charge issuers for proxy distribution; rather, they state that issuers must reimburse the nominees for ''reasonable expenses'' incurred.[11]

Currently, the Supplementary Material to NYSE Rule 451, which is cross-referenced by the Supplementary Material to Rule 465 and Section 402.10 of the Manual, establish the maximum rates at which an NYSE member organization may be reimbursed for expenses incurred in connection with distributing proxy and other issuer communication materials to beneficial holders. FINRA Rule 2251 also sets forth a schedule of maximum rates that is substantively identical to the rate schedule specified in NYSE Rule 451.[12] The rules of other self-regulatory organizations (''SROs'') generally provide that member organizations must forward proxy and other issuer communication materials if they receive ''reasonable'' reimbursement, but they do not specify any schedule of maximum permitted charges.[13]

The Exchange proposes to amend Supplementary Materials .90–.96 to NYSE Rule 451 by deleting the provisions setting maximum reimbursement rates and replacing them with rule text stating that member organizations must comply with any schedule of approved charges set forth in the rules of any other national securities exchange or association of which such member organization is a member.[14] The Exchange also proposes to delete the cross-references to NYSE Rule 451.90–96 in Supplementary Material .20 to NYSE Rule 465 and replace it with rule text that is identical to the proposed new language in Supplementary Material .90 to NYSE Rule 451.[15] The Exchange states that the proposed rule change is not intended to take a position on the appropriateness of the fee schedules for proxy and other distributions currently set forth in NYSE Rules 451 and 465 or in the rules of any other SRO.[16]

According to the Exchange, since all NYSE member organizations that are subject to the fee schedule set forth in NYSE Rule 451 (and cross referenced by NYSE Rule 465) are also FINRA member firms, the proposal would effectively require member organizations to comply with the fee schedule set forth in FINRA Rule 2251.[17] The Exchange acknowledges that it has historically taken the lead in establishing the maximum proxy distribution reimbursement rates, but states that it no longer believes the Exchange is best positioned to retain this role going forward.[18] The Exchange states that all of the brokers who hold shares on behalf of customers in street name are FINRA members, while only a subset of them are members of the NYSE.[19] The Exchange also notes that a large and increasing number of the affected issuers are listed on Nasdaq, CBOE or other non-NYSE Group exchanges or are traded solely over the counter.[20] The Exchange further states that the development of the mutual fund industry has led to the existence of a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90677 (December 15, 2020), 85 FR 83119 (''Notice''). Comments received on the proposed rule change are available at: *https://www.sec.gov/comments/sr-nyse-2020-96/srnyse202096.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 91025, 86 FR 8246 (February 4, 2021). The Commission designated March 21, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* NYSE Rules 451 and 465, and Section 402.10 of the Manual; Notice, *supra* note 3, 85 FR at 83119. The ownership of shares in street name means that a shareholder, or ''beneficial owner,'' has purchased shares through a broker-dealer or bank, also known as a ''nominee.'' *See* Securities Exchange Act Release No. 70720 (October 18, 2013), 78 FR 63530, 63531 n.14 (October 24, 2013) (SR–NYSE–2013–07) (Order Granting Approval to Proposed Rule Change Amending NYSE Rules 451 and 465, and the Related Provisions of Section 402.10 of the NYSE Listed Company Manual) (''2013 Approval Order''). In contrast to direct ownership, where shares are directly registered in the name of the shareholder, shares held in street name are registered in the name of the nominee, or in the nominee name of a depository, such as the Depository Trust Company. *Id.*

[8] *See* NYSE Rules 451 and 465, and Section 402.10 of the Manual; 2013 Approval Order, *supra* note 7, 78 FR at 63531.

[9] 17 CFR 240.14b–1; 17 CFR 240.14b–2.

[10] *See* 17 CFR 240.14b–1 and 14b–2; *see also* 2013 Approval Order, *supra* note 7, 78 FR at 63531.

[11] *See* 17 CFR 240.14b–1 and 14b–2; *see also* 2013 Approval Order, *supra* note 7, 78 FR at 63531.

[12] *See* Notice, *supra* note 3, 85 FR at 83120. The Exchange states that FINRA Rule 2251 differs from NYSE Rule 451 in one respect. *See id.,* 85 FR at 83119, n.8. Specifically, FINRA has not adopted the Notice and Access fees for investment company shareholder report distributions set forth in Section 5 (Notice and Access Fees) of Supplementary Material .90 to NYSE Rule 451 as part of FINRA Rule 2251. *Id.*

[13] *See* Notice, *supra* note 3, 85 FR at 83119. *But see* NYSE American LLC Rule 576.80 (setting forth a schedule of approved charges by member organizations in connection with proxy solicitations).

[14] *See* proposed Supplementary Material .90 to NYSE Rule 451. The Exchange also proposes to delete Section 402.10 of the Manual, which replicates the fee schedule set forth in Supplementary Material .90–.96 to NYSE Rule 451.

[15] *See* proposed Supplementary Material .20 to NYSE Rule 465.

[16] *See* Notice, *supra* note 3, 85 FR at 83120. As noted above, FINRA and NYSE American LLC presently are the only SROs besides NYSE with rules that set forth a fee schedule.

[17] *See id.*

[18] *See id.,* 85 FR at 83119.

[19] *See id.,* 85 FR at 83120.

[20] *See id.,* 85 FR at 83120.

huge number of issuers who are not listed on any exchange.[21]

III. Summary of Comment Letters Received

Several commenters support the proposal.[22] One commenter believes the Commission should approve the proposed rule change ''[g]iven the technical nature of the change and NYSE's lack of interest in reforming, or even examining, the current fee system.'' [23] This commenter, however, believes it is imperative for the Commission to take this opportunity to reform the current system relating to processing fees for shareholder materials, including by facilitating competition in the distribution of shareholder materials through greater issuer participation in the selection process or, barring that, by reforming the processing fee schedule.[24] A number of commenters from the fund industry agree with the views expressed by this commenter.[25]

Several other commenters oppose the proposal. One commenter expressed the view that ''the most appropriate approach is to retain NYSE in the role and accelerate discussions about fundamental reform of the proxy communication process, abolishing the need for reimbursement fees and facilitating issuer-directed communications.'' [26] This commenter explained that ''NYSE has played a longstanding, central role in the industry dialogue on proxy reform and the fee-setting process, given its representation of both issuers and brokers,'' and so the commenter ''continue[s] to believe that its leadership will be critical to any transition to new arrangements for proxy communications and associated fees.'' [27] Another commenter stated that ''[i]nstead of approving a rule proposal that transfers regulatory oversight of proxy fees from one Self-Regulatory Organization to another,'' the Commission should reform the proxy processing system by ''replacing the current regulatory framework with one in which market forces determine fees for proxy distribution and other services.'' [28] This commenter added that, ''[u]nlike the stock exchanges, FINRA has no regulatory relationship with public companies, or other issuers of securities, and certainly cannot represent their interests or provide a mechanism for a balanced oversight process.'' [29] Similarly, a third commenter endorsed the ''market-driven solution'' advocated by other commenters, and ''does not support the proposal to transfer responsibility for the maximum fee-setting process to FINRA, whose membership represents the broker side of the industry but not the issuer side.'' [30]

Finally, FINRA opposes the proposal on the grounds that it ''is premature and incorrectly predicated on FINRA assuming primary responsibility for a regulatory regime that it has never led, and which FINRA is not best equipped to lead.'' [31] FINRA notes that ''historically the NYSE has taken the lead on proxy distribution fee schedules,'' and that FINRA has ''amend[ed] its proxy distribution rule fee schedule to conform with [NYSE's] in the interest of ensuring regulatory clarity and harmonization.'' [32] FINRA adds that ''[i]n light of the NYSE's historical experience with these rules derived in part from its listing relationship with many issuers, which FINRA lacks,'' FINRA would ''give strong consideration to rescinding its fee schedule'' if the Commission were to approve NYSE's proposal.[33] FINRA suggests that, ''prior to approving or disapproving the NYSE proposal, the Commission organize a public dialogue on the appropriate regulation of reimbursement of broker-dealer expenses for forwarding issuer documents.'' [34]

IV. Proceedings To Determine Whether To Approve or Disapprove SR–NYSE–2020–96 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposal should be approved or disapproved.[35] Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Act, the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Act and, in particular, with Section 6(b)(5) of the Act,[36] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, 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 are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[37]

As acknowledged by both the Exchange and commenters, the NYSE historically has taken the lead in establishing and updating the maximum rates of reimbursement for ''reasonable expenses'' that broker-dealers may seek from issuers in connection with the distribution of proxy and other materials to beneficial owners.[38] The

[21] *See id.,* 85 FR at 8319–20.

[22] *See* letters from Dorothy M. Donohue, Deputy General Counsel, Securities Regulation, and Joanne Kane, Senior Director, Operations and Transfer Agency, Investment Company Institute, dated January 8, 2021, at 2 (''ICI Letter''); Timothy W. McHale, Senior Vice President & Senior Counsel, Capital Research and Management Company, and Anthony M. Seiffert, Chief Compliance Officer, American Funds Service Company, Capital Group, dated January 11, 2021; Catherine L. Newell, General Counsel and Executive Vice President, Dimensional Fund Advisors LP, dated January 11, 2021; Peter J. Germain, Chief Legal Officer, Federated Hermes, Inc., dated January 11, 2021; Basil K. Fox, Jr., President, Franklin Templeton Investor Services, LLC, dated January 11, 2021; Heidi Hardin, Executive Vice President and General Counsel, MFS Investment Management, dated January 11, 2021; Thomas E. Faust Jr., Chairman and Chief Executive Officer, Eaton Vance Corp., dated January 14, 2021; and Noah Hamman, Chief Executive Officer, AdvisorShares Investments, LLC, dated January 14, 2021.

[23] *See* ICI Letter at 2.

[24] *Id.* at 2–4. This commenter also urged the Commission to emphasize that the existing fee schedules represent the maximum rates for ''reasonable'' processing fees, rather than an obligation to pay those exact fees. Several commenters from the fund industry agreed with the views expressed in the ICI Letter.

[25] *See supra* note 22.

[26] *See* letter from Paul Conn, President, Global Capital Markets, Computershare, dated January 11, 2021, at 4.

[27] *See id.*

[28] *See* letter from Niels Holch, Executive Director, Shareholder Communications Coalition, dated January 20, 2021, at 4.

[29] *See id.* at 5.

[30] *See* letter from Todd J. May, President, Securities Transfer Association, Inc., dated March 1, 2021, at 2.

[31] *See* letter from Marcia Asquith, Executive Vice President, Board & External Relations, FINRA, dated January 11, 2021, at 6.

[32] *See id.* at 4.

[33] *See id.* at 5–6.

[34] *See id.* at 6. FINRA also formally petitions the Commission to consider amending Rule 14b–1 to prescribe the fees charged for these expenses if the Commission determines that prescription of specific broker-dealer reimbursement fees is appropriate. *See id.*

[35] 15 U.S.C. 78s(b)(2)(B).

[36] 15 U.S.C. 78f(b)(5).

[37] *Id.*

[38] Since 1937, NYSE has required issuers, as a matter of policy, to reimburse its members for out of pocket costs for forwarding materials. *See* Concept Release on the U.S. Proxy System, Securities Exchange Act Release No. 62495 (July 14, 2010), 75 FR 42982, 42995 (July 22, 2010) (''Proxy

NYSE has periodically engaged in a formal process to review and update these maximum reimbursement rates, with the goal of ensuring that they are related to the reasonable proxy expenses of member firms,[39] and accordingly has gained considerable expertise in this area.[40] Further, because NYSE is a primary listing market, it has relationships with issuers as well as broker-dealers, and thus is well-positioned to take into account the views of both major stakeholder groups.[41]

NYSE is proposing to remove the provisions setting maximum reimbursement rates from its rules, and replace them with a requirement that an NYSE member firm comply with any schedule of approved charges set forth in the rules of any other SRO of which it is a member. This effectively would make the maximum reimbursement rates set forth in FINRA rules the industry reference, and establish FINRA as the lead SRO in this area.

In its proposal, NYSE expresses the view that FINRA is in a better position to take the lead in setting maximum reimbursement rates for the distribution of proxy and other issuer materials to beneficial owners because (1) all broker-dealers that hold shares in street name for customers are FINRA members, while only a subset of them are NYSE members, and (2) a large number of affected issuers are not listed on the NYSE. Unlike NYSE, however, FINRA does not have a relationship with issuers, who ultimately pay the reimbursement rates set forth in these rules. NYSE does not explain why, in the absence of a relationship with this important constituency, FINRA is in a better position than NYSE to assume the leadership role in this area. Further, NYSE has not explained the significance of the fact that only a subset of impacted broker-dealers are NYSE members, given that NYSE would appear well-positioned to consider the views of this constituency, or why the fact that all such broker-dealers are FINRA members puts FINRA in a materially better position to assume the leadership role in this area. Similarly, NYSE has not explained the significance of the fact that only a subset of impacted issuers are listed on NYSE, given that NYSE would appear well-positioned to consider the views of this constituency and, as discussed above, FINRA would not. As a result, the Commission believes there are questions as to whether NYSE's proposal is consistent with Section 6(b)(5) of the Act and, in particular, its requirements that the rules of the Exchange be designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that, under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [42] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[43] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[44]

For these reasons, the Commission believes it is appropriate to institute proceedings pursuant to Section 19(b)(2)(B) of the Act [45] to determine whether the proposal should be approved or disapproved.

V. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written view of interested persons concerning whether the proposal is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[46]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by April 14, 2021. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 28, 2021.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–96. 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

Concept Release''). NYSE's reimbursement rates were formally established by rule in 1952, and have been revised periodically since then. *See id.*

[39] Today's maximum rates set forth in NYSE Rules 451 and 465 are the product of several multi-year efforts lead by NYSE. The current fee structure was first established by NYSE as part of a pilot program in 1997 that was permanently approved by the Commission in 2002 and this basic fee structure, with some updates, remains in place today on the NYSE. The most recent NYSE review of the fees involved the establishment of NYSE's Proxy Fee Advisory Committee (''PFAC'') in 2010, which provided a report and recommendations to NYSE. NYSE proposed to adopt the PFAC fee recommendations and the Commission approved these changes in 2013. *See* 2013 Approval Order, *supra* note 7.

[40] *See* 2013 Approval Order, *supra* note 7. The rules of national securities exchanges and FINRA follow the NYSE fee schedule as reasonable rates of reimbursement for distribution of proxy and other material to beneficial owners. *See* Securities Exchange Act Release No. 71272 (January 9, 2014), 79 FR 2741 (January 15, 2014) (SR–FINRA–2013–056) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2251).

[41] *See* Proxy Concept Release, *supra* note 38, 75 FR at 42995.

[42] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[43] *See id.*

[44] *See id.*

[45] 15 U.S.C. 78s(b)(2)(B).

[46] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–96 and should be submitted on or before April 14, 2021. Rebuttal comments should be submitted by April 28, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06000 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91350; File No. SR–NSCC–2021–002]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Supplemental Liquidity Deposit Requirements

March 18, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 5, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to Rule 4(A) (Supplemental Liquidity Deposits) of the NSCC's Rules & Procedures (''Rules'') to (1) calculate and collect, when applicable, supplemental liquidity deposits to NSCC's Clearing Fund (''Supplemental Liquidity Deposits,'' or ''SLD'') on a daily basis rather than only in advance of the monthly expiration of stock options (defined in Rule 4(A) as ''Options Expiration Activity Period''); (2) establish an intraday SLD obligation that would apply in advance of Options Expiration Activity Periods and may also be applied on other days, as needed; (3) implement an alternative pro rata calculation of Members' SLD obligations that may apply in certain circumstances; and (4) simplify and improve the transparency of the description of the calculation, collection and treatment of SLD in Rule 4(A) of the Rules, as described in greater detail below.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC is proposing to enhance its management of the liquidity risks that arise in or are borne by it by calculating and collecting, when applicable, SLD on each Business Day rather than only in advance of Options Expiration Activity Periods. The proposed changes would establish an intraday SLD obligation that would apply in advance of Options Expiration Activity Periods and may be applicable on any Business Day, as needed. The proposal would also implement an alternative pro rata calculation of Members' SLD obligations that may apply in certain circumstances. Finally, in connection with these proposed changes, NSCC would simplify and improve the description of the calculation, collection and treatment of SLD in Rule 4(A). These proposed rule changes are described in greater detail below.

(i) Overview of the NSCC Liquidity Risk Management

NSCC, along with its affiliates, The Depository Trust Company and Fixed Income Clearing Corporation, maintains a Clearing Agency Liquidity Risk Management Framework (''Framework'') that sets forth the manner in which NSCC measures, monitors and manages the liquidity risks that arise in or are borne by it.[5] As a central counterparty, NSCC's liquidity needs are driven by the requirement to complete end-of-day money settlement, on an ongoing basis, in the event NSCC ceases to act for a Member (hereinafter referred to as a ''default'').[6] If a Member defaults, NSCC needs to complete settlement of guaranteed transactions on the defaulted Member's behalf from the date of default through the remainder of the settlement cycle. As such, and as provided for in the Framework, NSCC measures the sufficiency of its qualifying liquid resources through daily liquidity studies across a range of scenarios, including amounts NSCC would need in the event the Member or Member family with the largest aggregate liquidity exposure defaults.[7]

As described in the Framework, NSCC seeks to maintain qualifying liquid resources in an amount sufficient to cover this risk. These resources currently include (1) cash deposits to the NSCC Clearing Fund; [8] (2) the proceeds of the issuance and private

[47] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NSCC filed this proposed rule change as an advance notice (File No. SR–NSCC–2021–801) with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b–4(n)(1)(i) under the Act, 17 CFR 240.19b–4(n)(1)(i). A copy of the advance notice is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

[4] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] *See* Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (File Nos. SR–DTC–2017–004; SR–FICC–2017–008; SR–NSCC–2017–005).

[6] The Rules identify when NSCC may cease to act for a Member and the types of actions NSCC may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a Member's access to NSCC's services in the event that Member defaults on a financial or other obligation to NSCC. *See* Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 4.

[7] ''Qualifying liquid resources'' are defined in Rule 17Ad–22(a)(14) under the Act. 17 CFR 240.17Ad–22(a)(14). The Framework also includes a definition of qualifying liquid resources that incorporates by reference Rule 17Ad–22(a)(14). *See supra* note 5.

[8] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

placement of (a) short-term, unsecured notes in the form of commercial paper and extendable notes (''Commercial Paper Program''),[9] and (b) term debt (''Term Debt Issuance''); [10] (3) cash that would be obtained by drawing on NSCC's committed 364-day credit facility with a consortium of banks (''Line of Credit''); [11] and (4) Supplemental Liquidity Deposits, collected pursuant to Rule 4(A), which are currently designed to cover the heightened liquidity exposure arising around Options Expiration Activity Periods, required from those Members whose activity would pose the largest liquidity exposure to NSCC.[12]

NSCC's liquidity risk management has evolved in order to adhere to regulatory requirements that were adopted after Rule 4(A) was implemented.[13] As part of its efforts to maintain compliance with these requirements, NSCC has continued to strengthen its liquidity risk management strategy, including through growing and diversifying its qualifying liquid resources. In connection with these ongoing efforts, NSCC is proposing to calculate and collect, when applicable, SLD every Business Day rather than only in connection with Options Expiration Activity Periods. This proposed change would improve NSCC's ability to measure and monitor its daily liquidity exposures and allow it to collect additional qualifying liquid resources from Members whose activity poses the largest liquidity exposure to NSCC in connection with their daily settlement activity, and not only during Options Expiration Activity Periods. By measuring SLD against Members' actual daily settlement activity and NSCC's available qualifying liquid resources, the proposal would also help mitigate risks to NSCC that it is unable to secure adequate default liquidity from other sources in an amount necessary to meet its liquidity needs. For example, the proposal would help mitigate the risks that could arise if investor demand for the short-term notes issued under the Commercial Paper Program weakens, there is limited investor demand for term debt issued pursuant to a Term Debt Issuance, or NSCC is unable to renew its Line of Credit at the targeted amount.

NSCC is also proposing to establish an intraday SLD obligation that would apply on the first Business Day of the Options Expiration Activity Period to allow NSCC to continue to mitigate the additional liquidity exposures presented by options activity. The proposal would also permit NSCC to calculate and collect an intraday SLD on any Business Day when, for example, NSCC believes that it is necessary to collect an additional SLD from a Member whose activity presents relatively greater risks to the NSCC on an overnight basis.

NSCC is also proposing to implement an alternative calculation of Members' SLD requirements that would be their pro rata allocation of the largest SLD obligation calculated for that Business Day. This proposed change would provide NSCC with the discretion, in certain circumstances, to allocate its largest liquidity need on a Business Day among those Members that are required to pay SLD on that day rather than collect separate SLD from those Members, as described in greater detail below.

In connection with these proposed changes, NSCC would also simplify the description of the calculation of SLD in Rule 4(A) in order to improve the transparency of this Rule, as described in greater detail below.

(ii) Current Rule 4(A) and Supplemental Liquidity Deposits

Under the current Rule 4(A), NSCC collects SLD from the unaffiliated Members and families of affiliated Members (each defined as an ''Affiliated Family'') that incur the largest gross settlement debits over the settlement cycle during times of increased trading activity that arise around Options Expiration Activity Periods.[14]

Under the current Rule 4(A), NSCC performs calculations on a monthly basis, no later than the fifth day prior to an Options Expiration Activity Period, using activity observed over a 24-month lookback period (defined in the current Rule 4(A) as the ''Special Activity Lookback Period'').[15] These calculations determine (1) NSCC's largest liquidity need that exceeded its liquidity resources (defined in Rule 4(A) as ''Special Activity Peak Liquidity Need''); and (2) the 30 (or fewer) unaffiliated Members or Affiliated Families (defined in Rule 4(A) as ''Special Activity Liquidity Providers'') that presented the largest liquidity exposures to NSCC (defined in Rule 4(A) as ''Special Activity Peak Liquidity Exposures'').[16] To determine the SLD obligations of each Special Activity Liquidity Provider, the calculated Special Activity Peak Liquidity Need of NSCC is allocated to these Special Activity Liquidity Providers in proportion to the Special Activity Peak Liquidity Exposures they presented to NSCC during the Special Activity Lookback Period. Special Activity Liquidity Providers are required to fund their SLD obligations by the close of business on the second day prior to the applicable Options Expiration Activity Period.[17] SLD may be returned to Special Activity Liquidity Providers seven Business Days after the end of the applicable Options Expiration Activity Period.[18]

On any Business Day between calculation dates, if NSCC observes an increase in its liquidity needs that exceeds a predetermined threshold amount, it may call for an additional deposit from the Member whose increase in activity levels caused (or was the primary cause of) such increased liquidity need (defined in Rule 4(A) as ''Special Activity Liquidity Call'').[19] NSCC may hold deposits made pursuant to a Special Activity Liquidity Call for up to 90 days after the deposit is made.[20] Members are also permitted to submit a cash deposit to the Clearing Fund as a ''Special Activity Prefund Deposit'' no later than the first Business Day of an Options Expiration Activity Period.[21] NSCC understands that a Member would generally make a Special Activity Prefund Deposit when it anticipates that its Special Activity Peak Liquidity Exposure during that period may be greater than the amount calculated by NSCC pursuant to Rule 4(A) based on activity in the Special Activity Lookback Period.[22]

[9] *See* Securities Exchange Act Release Nos. 75730 (August 19, 2015), 80 FR 51638 (August 25, 2015) (File No. SR–NSCC–2015–802); 82676 (February 9, 2018), 83 FR 6912 (February 15, 2018) (File No. SR–NSCC–2017–807).

[10] *See* Securities Exchange Act Release No. 88146 (February 7, 2020), 85 FR 8046 (February 12, 2020) (File No. SR–NSCC–2019–802).

[11] *See* Securities Exchange Act Release No. 80605 (May 5, 2017), 82 FR 21850 (May 10, 2017) (File Nos. SR–DTC–2017–802; SR–NSCC–2017–802).

[12] *See* Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *supra* note 4. *See also* Securities Exchange Act Release Nos. 70999 (December 5, 2013), 78 FR 75413 (December 11, 2013) (File No. SR–NSCC–2013–02); 71000 (December 5, 2013), 78 FR 75400 (December 11, 2013) (File No. SR–NSCC–2013–802).

[13] *See* 17 CFR 240.17Ad–22(e)(7). *See also supra* note 5.

[14] *See* Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *supra* note 4.

[15] *See id.*

[16] *See* Section 3 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[17] *See* Section 4 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[18] *See* Section 9 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[19] *See* Section 7 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[20] *See* Section 10 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[21] *See* definition of ''Special Activity Prefund Deposit'' in Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[22] *See id.*

The current Rule 4(A) also addresses how SLD are treated generally.[23] Specifically, while SLD are part of a Member's actual deposit to the Clearing Fund, they are made in addition to a Member's Required Fund Deposit and any other deposit of any such Member to the Clearing Fund.[24] Rule 4(A) also provides that SLD may be invested and may be used to satisfy a loss or liability as provided for in Sections 3 or 13 of Rule 4, and addresses NSCC's obligation to provide Members with certain information that would help them anticipate their potential SLD requirements.[25]

(iii) Amended Rule 4(A) and Proposed Daily Calculation of Supplemental Liquidity Deposits

In order to better address the liquidity risks presented by Members' daily activity, NSCC is proposing to amend Rule 4(A) to calculate and collect, when applicable, SLD every Business Day rather than only in connection with the monthly expiration of stock options. While the monthly expiration of stock options does present larger liquidity exposures to NSCC, NSCC may also face large liquidity exposures from Members' daily activity, particularly during volatile market conditions. By allowing NSCC to calculate and collect SLD daily, NSCC would be able to identify these exposures based on Members' daily activity rather than estimate its upcoming liquidity exposures based on activity observed over a lookback period. The proposal would help NSCC mitigate its liquidity risks through the daily collection of SLD from those Members' whose daily activity would, in the event of the Member's default, create a potential liquidity need that is in excess of NSCC's available qualifying liquid resources. The proposal would also permit NSCC to return SLD to Members on the Business Day following the day those deposits are collected and would remove the current requirement that SLD be held for up to 90 days.

In order to implement this proposed change to the timing of the SLD, NSCC would make a number of changes to Rule 4(A), described below. The proposed changes to Rule 4(A) would implement a daily calculation and collection of SLD, simplify and clarify the calculations done in connection with the SLD requirements, and enhance the disclosures of the SLD requirements. Despite these proposed changes, the structure of Rule 4(A) and the fundamental mechanics of the SLD requirements would be unchanged.

Proposed Daily Calculation of Supplemental Liquidity Deposits

Supplemental Liquidity Providers. Under the proposed Rule 4(A), each Business Day NSCC would determine the 30 (or fewer) Members (each such Member a ''Supplemental Liquidity Provider'') that had the ''Peak Liquidity Need,'' which would be defined as the largest Daily Liquidity Need that NSCC would have for that Member or Affiliated Family in a ''Lookback Period.'' [26] For purposes of this calculation, Daily Liquidity Need would be defined as the amount of liquid resources needed to effect the settlement of NSCC's payment obligations as a central counterparty over a three day settlement cycle, assuming the default of that Member on that day.

As described above, Supplemental Liquidity Providers are currently identified by reviewing Members' Special Activity Peak Liquidity Exposures over the Lookback Period. Under the proposed approach, NSCC would base this determination on Members' Peak Liquidity Need, which would continue to identify those Members whose activity posed the largest liquidity risks to NSCC during the Lookback Period. The proposed approach would no longer require a calculation using NSCC's available liquid resources on each day in the Lookback Period but would use a simpler approach by looking only at liquidity need. The proposed approach to use a simpler calculation would reduce the risk of error and would clarify the description of how NSCC would identify Supplemental Liquidity Providers in the proposed Rule 4(A), making it more predictable to Members.

Supplemental Liquidity Obligation. After NSCC determines the Supplemental Liquidity Providers, NSCC would then determine if any of the Supplemental Liquidity Providers would be required to pay an SLD on that Business Day. The proposed Rule 4(A) would use a simplified calculation by determining if the Daily Liquidity Need for each Supplemental Liquidity Provider on that Business Day exceeds the sum of NSCC's qualifying liquid resources available to NSCC on that day, assuming stressed market conditions (described below) (defined in the proposed Rule 4(A) as ''Qualifying Liquid Resources''). The result of that calculation would be a Supplemental Liquidity Provider's SLD requirement (defined in the proposed Rule 4(A) as a ''Supplemental Liquidity Obligation'') for that day. If the Daily Liquidity Need of a Supplemental Liquidity Provider does not exceed NSCC's Qualifying Liquid Resources on that day, then it would not have a Supplemental Liquidity Obligation.

Because this calculation would be done at the start of each Business Day (as discussed further below), it would be based on the Qualifying Liquid Resources, including Required Fund Deposits to the Clearing Fund, available to NSCC as of the end of the prior Business Day. Additionally, in order to anticipate market conditions that could cause Qualifying Liquid Resources to be unavailable on that day, NSCC would apply stress scenarios in determining its total Qualifying Liquid Resources for purposes of Rule 4(A). Currently, NSCC applies stress scenarios in determining the Special Activity Daily Liquidity Need and, in practice, they are currently applied to the Other Qualifying Liquid Resources in this calculation under the current Rule 4(A).[27] The proposed change would allow NSCC to continue to assume stressed markets in its SLD calculations, which protects it against unexpected market events.[28] The proposed changes to Rule 4(A) would make it clearer how these stress scenarios are applied.

Under this proposed calculation, NSCC would no longer need to estimate the potential liquidity need a Member's activity could pose to NSCC based on activity that settled in the Lookback Period. Instead, the Supplemental Liquidity Obligation of a Member would be calculated based on the actual liquidity exposure that its daily activity would pose to NSCC on that particular day in the event of that Member's default. The proposed change provides both NSCC and Members with a more

[23] *See* Section 13 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[24] *See* Section 13(b) of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[25] *See* Section 13(c) and Section 14 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[26] The ''Lookback Period'' would continue to be defined as 24 months, or a longer period as determined by NSCC in its discretion. NSCC may adjust the Lookback Period if, for example, unusual activity observed in the Lookback Period is not an appropriate indicator of future settlement activity and causes a Member to be a Supplemental Liquidity Provider. *See* Section 2 (Defined Terms) of Rule 4(A), *id.*

[27] Current Rule 4(A) uses the defined term ''Other Qualifying Liquid Resources'' to refer to NSCC's qualifying liquid resources other than the Clearing Fund and the Line of Credit. *See* Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[28] NSCC would apply the same stress scenarios that it currently applies, which include the market shocks of 1987, and removing the largest commitment to the Line of Credit, excess deposits to the Clearing Fund on deposit and proceeds from issued commercial paper that is maturing within five Business Days from NSCC's Qualifying Liquid Resource. Any changes to these stress scenarios would be announced by an Important Notice posted to NSCC's website.

reliable measure of the liquidity risks posed to NSCC by its Members' daily settlement activity in calculating SLD requirements.

Each Supplemental Liquidity Provider that has a Supplemental Liquidity Obligation on a Business Day would receive a notice from NSCC of the amount of its Supplemental Liquidity Obligation and would be required to make a deposit in that amount to the Clearing Fund within one hour of such notice. The proposed timing of funding a Supplemental Liquidity Obligation would mirror the current requirement that is applied to Members' Required Fund Deposits, which is also calculated and collected daily, and must be funded within one hour of demand.[29] Specifically, NSCC expects to deliver notification of Supplemental Liquidity Obligations to Supplemental Liquidity Providers by around 8:30 a.m. ET each Business Day, with deposits required by no later than 9:30 a.m. ET.

Proposed Pro Rata Calculation of Supplemental Liquidity Obligations. As an alternative to the calculation of Supplemental Liquidity Obligations described above, proposed Rule 4(A) would also state that, in the event two or more Supplemental Liquidity Providers have a Supplemental Liquidity Obligation of more than $2 billion on a Business Day, calculated pursuant to the calculation described above, NSCC may determine the Supplemental Liquidity Obligation of all Supplemental Liquidity Providers on that day would be their pro rata share of the largest Supplemental Liquidity Obligation calculated on that Business Day.[30]

This proposed alternative calculation of the Supplemental Liquidity Obligations would provide NSCC with the option of collecting only the largest SLD calculated on a Business Day, allocated among each of the Supplemental Liquidity Providers. The purpose of this proposed provision is to provide NSCC with the option of collecting enough funds to meet its regulatory requirements in circumstances when the aggregate Supplemental Liquidity Obligations on a particular day would significantly exceed that amount. Therefore, NSCC has structured this provision to be available only if two or more Supplemental Liquidity Providers owe SLD of more than $2 billion. NSCC has never had two more Supplemental Liquidity Providers owe more than $2 billion in SLD on a calculation date since Rule 4(A) was adopted. Therefore, NSCC believes this alternative calculation would only be available in very limited circumstances. Furthermore, NSCC believes the threshold of $2 billion is appropriate as it would only permit this alternative calculation in circumstances when it would have a material impact on the allocation of Supplemental Liquidity Obligations among the Supplemental Liquidity Providers.

In such circumstances, when multiple Members have relatively large Supplemental Liquidity Obligations of more than $2 billion, NSCC would have the option to determine if it is appropriate to collect the largest SLD calculated for that Business Day, divided pro rata among the Supplemental Liquidity Providers rather than collect the each of the Supplemental Liquidity Obligations of those firms. NSCC may determine, for example, that, in certain market conditions, this approach would be appropriate to alleviate liquidity pressures on Supplemental Liquidity Providers. This alternative calculation would allow NSCC to collect sufficient qualifying liquid resources to meet its regulatory obligations with respect to liquidity risk management without requiring all of the Supplemental Liquidity Providers to fund the total amount of their calculated Supplemental Liquidity Obligation on that Business Day.[31]

Intraday Supplemental Liquidity Calls. The proposed Rule 4(A) would also establish Intraday Supplemental Liquidity Calls that would replace the current Special Activity Liquidity Calls. The existing Special Activity Liquidity Calls are designed to address increases in NSCC's liquidity need between calculation dates. The proposed Intraday Supplemental Liquidity Calls would serve a similar function, allowing NSCC to calculate and collect additional SLD on an intraday basis if a Supplemental Liquidity Provider's increased activity levels or projected settlement activity causes NSCC's Daily Liquidity Need to exceed NSCC's Qualifying Liquid Resources. This proposed provision would assist NSCC in mitigating increased liquidity exposures in specified circumstances.

First, proposed Rule 4(A) would establish a monthly Intraday Supplemental Liquidity Call that is calculated and collected, when applicable, on the first Business Day of an Options Expiration Activity Period, which is typically a Friday.[32] This Intraday Supplemental Liquidity Call would be calculated as the difference between (1) NSCC's Daily Liquidity Need, recalculated to account for both actual settlement activity submitted to NSCC over the course of Business Day and projected activity in stock options that is expected to be submitted to NSCC[33] and (2) NSCC's Qualifying Liquid Resources. Settlement activity may net with (and offset) the activity that NSCC uses in re-calculating the Daily Liquidity Need. In order to account for any potential offsetting settling activity, NSCC would adjust the re-calculated Daily Liquidity Need using an estimated netting percentage that is based on each Supplemental Liquidity Provider's average percentage of netting observed over the prior 24 months. Under this proposed provision, NSCC would adjust the amount of SLD it collects in order to mitigate the increased liquidity exposures related to the monthly expiration of stock options.

Second, proposed Rule 4(A) would allow NSCC to call for additional SLD on an intraday basis on any Business Day if a Supplemental Liquidity Provider's increased activity levels causes NSCC's Daily Liquidity Need to exceed NSCC's Qualifying Liquid Resources and NSCC determines, in its sole discretion, that it is appropriate to require an additional intraday SLD from

[29] *See* Section II(B) of Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

[30] As an example, the Supplemental Liquidity Obligations for three Supplemental Liquidity Providers on a Business Day are—Member A: $6 billion, Member B: $2 billion and Member C: $1 billion. If NSCC determines, in its sole discretion, to calculate their Supplemental Liquidity Obligations on a pro-rata basis, then their Supplemental Liquidity Obligations would be—Member A: $4 billion (or ⅔ of the largest Supplemental Liquidity Obligation of $6 billion), Member B: $1.3 billion (or ⅔ of the $6 billion) and Member C: $700 million (or ⅓ of the $6 billion). The notice provided to each Supplemental Liquidity Provider on that Business Day would inform those Members that this pro-rata calculation was applied.

[31] Rule 17Ad–22(e)(7)(i) under the Act requires, in part, that NSCC maintain sufficient liquid resources at the minimum to effect same-day settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios, including the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions. 17 CFR 240.17Ad–22(e)(7)(i).

[32] The proposed Rule 4(A) will retain the existing definition of an Options Expiration Activity Period for purposes of this monthly Intraday Supplemental Liquidity Call.

[33] Each Business Day, NSCC receives information regarding projected settlement activity from The Options Clearing Corporation pursuant to a Stock and Futures Settlement Agreement (''OCC Accord''). The OCC Accord provides for the clearance and settlement of exercises and assignments of options on eligible securities or the maturity of eligible stock futures contracts through NSCC. *See* Securities Exchange Act Release No. 81260 (July 31, 2017), 82 FR 36484 (August 4, 2017) (File Nos. SR–NSCC–2017–803; SR–OCC–2017–804).

that Supplemental Liquidity Provider in order to mitigate those additional liquidity exposures. Under this proposed change, NSCC would have the ability to make an Intraday Supplemental Liquidity Call on any Business Day. The amount of an Intraday Supplemental Liquidity Call would be the difference between NSCC's Daily Liquidity Need, recalculated for that Business Day taking into account any increase in settlement activity, and NSCC's Qualifying Liquid Resources. This proposed provision would allow NSCC to adjust the amount of SLD it collects for a Business Day in circumstances when NSCC believes it is necessary to accelerate the collection of additional SLD from Supplemental Liquidity Providers whose activity may present relatively greater risks to the NSCC on an overnight basis. NSCC would determine if an Intraday Supplemental Liquidity Call is appropriate based on a variety of factors and circumstances, including, but not limited to, an assessment of a Supplemental Liquidity Provider's ability to meet its projected settlement or Supplemental Liquidity Obligations and estimates of settlement activity that could offset settlement exposures and are not reflected in NSCC's liquidity estimates.

Returns of SLD and Miscellaneous Matters. Proposed Rule 4(A) would provide that NSCC would return SLD, including any SLD funded pursuant to an Intraday Supplemental Liquidity Call, on the next Business Day unless such amounts are held longer by NSCC pursuant to proposed Section 12a of Rule 4(A), as described below. Under the current Rule 4(A), NSCC may hold SLD for up to seven Business Days after the end of the applicable Options Expiration Activity Period and may hold SLD funded pursuant to a Special Activity Liquidity Call for up to 90 days after such deposit is made. Under the proposed change, because NSCC would recalculate the Supplemental Liquidity Obligations each Business Day, NSCC would no longer need to hold SLD for these extended periods.

NSCC would amend proposed Section 12a (currently Section 13a) of Rule 4(A) to clarify that SLD, as part of Members' actual deposit to the Clearing Fund, would be subject to the provision of Section 9 of Rule 4. Section 9 of Rule 4 addresses NSCC's right to withhold all or any part of any excess deposit of a Member if such Member has been placed on the Watch List pursuant to the Rules or if NSCC determines that the Member's anticipated activities in NSCC in the near future may reasonably be expected to be materially different than its activities of the recent past.[34] Current Section 13a of Rule 4(A) addresses how SLD are treated pursuant to other Rules, particularly Rule 4, which addresses Members' deposits to the Clearing Fund. While this proposal would not change NSCC's rights with respect to these funds, it would provide Members with greater transparency into how SLD are treated under Rule 4.

NSCC would also amend the provision in Rule 4(A) that addresses when SLD would be returned to a Member that ceases to be a participant. Currently, Rule 4(A) states that SLD are not subject to Section 7 of Rule 4 (which addresses how Required Fund Deposits are returned to retired Members) and, as such, are returned to retired Members as otherwise provided for in Rule 4(A).[35] Under the proposed Rule 4(A), because NSCC would be able to calculate SLD each Business Day, it would return SLD on the Business Day following the calculation date. However, while a firm may still have unsettled activity on the day it retires, NSCC would not be able to collect SLD on the days following a Member's retirement. Therefore, NSCC is proposing to amend Rule 4(A) to require that SLD of a retired Member be treated similarly to other cash Required Fund Deposits to the Clearing Fund and be held by NSCC for 30 calendar days after any of its open transactions have settled and obligations have been satisfied. This proposed change would protect NSCC from liquidity risks presented by open transactions in the days following a firm's retirement and would align the treatment of these funds with the treatment of Required Fund Deposits of retired Members.

The proposed Rule 4(A) would also simplify the additional miscellaneous provisions applicable to SLD, which address, for example, NSCC's right to debit Members' accounts at NSCC if a Supplemental Liquidity Provider fails to meet its Supplemental Liquidity Obligation, and the information NSCC makes available to Supplemental Liquidity Providers each Business Day regarding SLD calculations. While the proposed changes would update and simplify these provisions, they would not significantly alter the structure of these provisions, as described below.

[34] For example, this may occur when an index rebalancing occurs shortly after a month-end options expiration period, which could cause an increase in NSCC's liquidity exposures.

[35] Section 7 of Rule 4 provides that Required Fund Deposits to the Clearing Fund in the form of cash and securities are returned to retired Members within 30 calendar days after all of its transactions have settled and obligations have been satisfied. *See supra* note 4.

Proposed Changes to Rule 4(A)

The proposal described above would be implemented into the Rules by amending the current Rule 4(A). The specific changes to implement the proposal are described below.

Section 1 (Overview). NSCC is proposing changes to Section 1 of Rule 4(A) to simplify the descriptions by removing outdated and unnecessary language. Section 1 of Rule 4(A) would continue to provide the rationale for the SLD requirement, by describing NSCC's liquidity needs and how the SLD requirements are designed to contribute to meeting those needs. However, the proposed changes would simplify this section by removing a statement that specifically identifies two of NSCC's principal sources of liquidity and would instead more generally refer to NSCC's sources of liquidity. The proposed changes to Section 1 of Rule 4(A) would also remove references to options expiration activity periods, which would no longer be applicable to the SLD requirement under this proposal.

Section 2 (Defined Terms). NSCC is proposing several changes to Section 2 of Rule 4(A) in order to implement this proposal. As described below, the proposed changes to the defined terms address the change in timing of the SLD requirement to occur each Business Day and would improve the transparency of Rule 4(A) through simplified and clearer defined terms.

First, Section 2 of proposed Rule 4(A) would remove the definition of ''Special Activity Calculation Date,'' which is tied to the monthly Options Expiration Activity Period, and instead would use the term ''Business Day'' throughout proposed Rule 4(A), where appropriate. Business Day is currently defined in Rule 1 as any day on which NSCC is open for business. Therefore, this proposed change would provide for the calculation of SLD requirements on each day that NSCC is open for business.

Second, Section 2 of the proposed Rule 4(A) revise other defined terms that use the phrase ''Special Activity'' to either remove that phrase or, when appropriate, to replace this phrase with the term ''Supplemental.'' For example, NSCC would revise the defined term ''Special Activity Daily Liquidity Need'' to ''Daily Liquidity Need,'' and would revise the defined term ''Special Activity Liquidity Provider'' to ''Supplemental Liquidity Provider.'' The phrase ''Special Activity'' was used in the current Rule 4(A) to refer to the Options Expiration Activity Period, which would only be applicable to the monthly intraday SLD in the proposed Rule 4(A).

NSCC would also update the definition of Daily Liquidity Need to change a reference from a four-day settlement cycle to a three-day settlement cycle, to reflect the amendment to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions.[36] Additionally, NSCC would move the defined term for ''Options Expiration Activity Period'' within Section 2 of the proposed Rule 4(A) so it continues to appear alphabetically, but is not proposing to change the definition of this term.

Third, the proposed changes to Section 2 of Rule 4(A) would include one defined term for ''Qualifying Liquid Resources'' to refer to all default liquidity resources available to NSCC to settle its payment obligations as a central counterparty. As discussed in greater detail above, the defined term would provide that NSCC may apply stressed market assumptions to its Qualifying Liquid Resources when applying these resources in the calculations made under Rule 4(A). In connection with this proposed change, NSCC would remove the defined terms ''Commitment'' and ''Credit Facility,'' which were used in the current Rule 4(A) to refer to NSCC's Line of Credit, and would remove ''Other Qualifying Liquid Resources,'' which was used to refer to NSCC's liquid resources other than the Clearing Fund and the Line of Credit. This proposed change would simplify Rule 4(A) and would account for NSCC's continuing efforts to expand and diversify its default liquidity resources. The proposed change would also clarify that Qualifying Liquid Resources would not include SLD for purposes of the calculations in Rule 4(A).

Fourth, the proposed changes would move certain calculations out of the defined terms in Section 2 and include them in the relevant later sections of Rule 4(A). This proposed change would simplify and clarify Rule 4(A), which currently requires a reader to refer back to the defined terms in Section 2 when reading the calculations and requirements set forth in later sections of Rule 4(A). For example, Section 2 of Rule 4(A) currently includes the calculation of ''Special Activity Peak Liquidity Exposure'' and ''Special Activity Peak Liquidity Need.'' In the proposed Rule 4(A), NSCC would no longer use the calculation of Special Activity Peak Liquidity Exposure in determining the Supplemental Liquidity Providers or in calculating those requirements. The calculation of Peak Liquidity Need, which would replace Special Activity Peak Liquidity Need, would be moved out of Section 2 and into Section 3, where that calculation would be described as being used to identify Supplemental Liquidity Providers.

Finally, the proposed changes to Section 2 of Rule 4(A) would remove defined terms that are no longer needed when NSCC calculates SLD requirements daily. For example, NSCC would remove defined terms that are related to the Options Expiration Activity Period, including ''Special Activity Business Day,'' which is currently defined as a Business Day included in an Options Expiration Activity Period. NSCC would also remove the defined term for ''Special Activity Prefund Deposit'' because it would no longer be necessary for Members to prefund their potential SLD requirement in advance of NSCC's calculations when they are done on a daily basis.

Section 3 (Supplemental Liquidity Providers). NSCC is proposing to amend Section 3 to describe how NSCC would identify the Supplemental Liquidity Providers for each Business Day. Section 3 of the proposed Rule 4(A) would state that, each Business Day, NSCC would determine the Peak Liquidity Need of each Member during the Lookback Period, and would identify the Supplemental Liquidity Providers for that Business Day as the 30 (or fewer) Members with the largest Peak Liquidity Need in that time period. These changes would implement the proposal described in greater detail above to make this calculation daily and to simplify the calculation used to identify Supplemental Liquidity Providers by using Peak Liquidity Need rather than using the largest exposures of all providers in the Lookback Period.

Section 4 (Supplemental Liquidity Obligations); Section 5 (Satisfaction of Supplemental Liquidity Obligations); and Section 6 (Notice of Supplemental Liquidity Obligations and Payment of Supplemental Liquidity Deposits). NSCC would amend Sections 4, 5 and 6 of Rule 4(A) to describe the simplified calculation of Supplemental Liquidity Obligations, and the process by which Supplemental Liquidity Providers would pay their Supplemental Liquidity Obligations after being notified by NSCC. Proposed changes to Section 4 would implement the revised calculation of Supplemental Liquidity Obligations, described in greater detail above, as the difference between a Supplemental Liquidity Provider's Daily Liquidity Need for that Business Day and the Qualifying Liquid Resources available to NSCC on that day. The proposed changes would also create a subsection b. of Section 4 to describe the optional, alternative pro rata calculation of Supplemental Liquidity Obligations, as described in greater detail above.

Proposed changes to Sections 5 and 6 of Rule 4(A) would update the defined terms and the timing by when Supplemental Liquidity Providers must fund their Supplemental Liquidity Obligations to reflect the change of these obligations to daily. Proposed changes to Section 6 of Rule 4(A) would state that the notice provided to Supplemental Liquidity Providers regarding their Supplemental Liquidity Obligations would state if that amount was calculated pursuant to Section 4b as a pro rata share of the largest Supplemental Liquidity Obligation of that Business Day.

Section 7 (Determination of Intraday Supplemental Liquidity Calls) and Section 8 (Satisfaction of Intraday Supplemental Liquidity Calls). NSCC would amend Sections 7 and 8 of Rule 4(A) to reflect the removal of the Special Activity Liquidity Calls and the adoption of the two Intraday Supplemental Liquidity Calls, as described in greater detail above. The proposed changes to these sections would also update defined terms, as appropriate.

Returns of Supplemental Liquidity Deposits—Section 9 (Deposits Made in Satisfaction of a Supplemental Liquidity Obligation) and Section 10 (Ceasing to be a Participant). NSCC is proposing to consolidate the current Sections 9 and 10 of Rule 4(A) into a new Section 9 of Rule 4(A), which would address the return of SLD that are made in satisfaction of both Supplemental Liquidity Obligations and Intraday Supplemental Liquidity Calls. The proposed changes would provide that SLD made pursuant to either Supplemental Liquidity Obligations and Intraday Supplemental Liquidity Calls would be returned to Supplemental Liquidity Providers on the next Business Day after the calculation date, unless otherwise notified by NSCC.

NSCC would amend Section 10 (currently Section 11) to align the treatment of SLD of a retired Member with the treatment of such firm's Required Fund Deposits, as described in greater detail above.

Miscellaneous Matters—Section 11 (Obligations of Affiliated Families and Supplemental Liquidity Providers), Section 12 (Application of Supplemental Liquidity Deposits) and Section 13 (Information). NSCC would amend Sections 11, 12 and 13 (currently

[36] *See* 17 CFR 240.15c6–1.

Sections 12, 13 and 14) of Rule 4(A) to update and simplify these provisions. The proposed amendments would not substantially amend the purpose or application of these sections.

Section 11 (currently Section 12) of Rule 4(A) provides that the Supplemental Liquidity Obligations of Affiliated Families are the several obligations of all of the Members of the Affiliated Family ratably in proportion to their applicable Special Activity Peak Liquidity Exposure. NSCC would not change this provision but would update it to use revised defined terms. NSCC would also amend Section 11 by consolidating two parallel paragraphs into subsection b., which address NSCC's right to collect SLD from Supplemental Liquidity Providers. This proposed change would simplify the provision but would not make substantive changes to NSCC's rights or Members' obligations.

Section 12 (currently Section 13), which addresses how SLD are treated under Rule 4, would be amended to update defined terms and to clarify that SLD may be held by NSCC as part of Members' actual deposits to the Clearing Fund, pursuant to Section 9 of Rule 4. No substantive changes are proposed to this Section.

Section 13 (currently Section 14) describes NSCC's obligation to provide Members with certain information regarding its SLD calculation. NSCC is proposing to amend this section to include updated defined terms and to reflect the daily calculation of SLD.

(iv) Impact Study Results

NSCC has provided the Commission with the results of an impact study that reviewed the proposal against the observed regulatory liquidity needs and NSCC's Qualifying Liquid Resources available during the period from 2016 through 2020 to assess both pro-forma and hypothetical impacts of the proposal under various liquidity scenarios.

Pro-Forma Impact Study. The pro-forma impact study compared NSCC's regulatory liquidity needs against the Qualifying Liquid Resources that were available between 2016 and 2020. The pro-forma analysis indicated that NSCC would expect between 1 and 3 Supplemental Liquidity Obligations per year, ranging in size between $1.0 billion to $5.4 billion in 2016 through 2019. In calendar year 2020, the impact study shows that available Qualifying Liquid Resources for each date would have eliminated potential Supplement Liquidity Obligations.

Additionally, this impact study showed between 4 and 27 actual Supplemental Liquidity Obligations were received by NSCC per year, typically averaging $3.6 billion during this same period, including 9 actual Supplemental Liquidity Obligations received by NSCC in 2020.

Hypothetical Impact Study. NSCC also developed several hypothetical liquidity scenarios to assess the proposal's impact. When hypothetical Qualifying Liquid Resources available to NSCC are between $17 billion and $22 billion, NSCC would expect between 7 and 36 Supplemental Liquidity Obligations per year, ranging in size between $2.1 billion to $4.6 billion each; and (2) when the hypothetical Qualifying Liquid Resources available to NSCC are $22 billion or above, NSCC would expect between 1 and 5 Supplemental Liquidity Obligations per year, ranging in size between $2.1 billion to $6.8 billion each.

NSCC has also provided the Commission with details of potential impacts of the proposal on the largest 50 Affiliated Families, a list of the 30 Affiliated Families with the largest liquidity exposures as of December 31, 2020, and the respective Affiliated Families' maximum and average NSCC liquidity needs for each calendar year between 2016 and 2020.

(v) Implementation Timeframe

NSCC would implement the proposed changes no later than 10 Business Days after the later of the approval of the proposed rule change and no objection to the related advance notice [37] by the Commission. NSCC would announce the effective date of the proposed changes by Important Notice posted to its website.

2. Statutory Basis

NSCC believes the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,[38] and Rules 17Ad–22(e)(7)(i) and (ii), each promulgated under the Act,[39] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the rules of NSCC be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[40] NSCC believes the proposed rule change is designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because the proposal would allow NSCC to better limit its liquidity exposure to Members in the event of a Member default.

Specifically, under the proposal, each Business Day NSCC would measure the Supplemental Liquidity Obligation of each Supplemental Liquidity Provider as the difference between the Daily Liquidity Need of the Supplemental Liquidity Provider calculated for that Business Day and the Qualifying Liquid Resources available to NSCC on that day assuming stressed market conditions. By making these calculations daily based on Members' current activity and NSCC's resources currently available to NSCC, the proposed SLD requirement would provide NSCC with a more accurate measure of its potential liquidity exposures to its Members in the event of a Member default. The proposal would also establish a monthly intraday SLD collection in connection with options expiration activity that present heighted liquidity exposures, and an optional intraday SLD that NSCC may collect when it deems appropriate to mitigate any increased liquidity exposures or in light of other circumstances. These proposed intraday SLD would allow NSCC to re-calculate its liquidity exposures and collect sufficient liquidity to allow it to complete end-of-day settlement in the event of the default of a Member.

Additionally, by providing an alternative pro rata calculation of Supplemental Liquidity Obligations in certain circumstances, the proposal would provide NSCC with the flexibility to determine the total amount collected on a Business Day, while continuing to collect and hold sufficient liquidity to allow NSCC to complete end-of-day settlement in the event of the default of the Member with the largest payment obligations. In this way, the proposed change to calculate and collect, when applicable, SLD on a daily basis based on current information, and on an intraday basis when NSCC observes an increase in its Daily Liquidity Need, would help NSCC assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[41]

The proposed changes to simplify and clarify Rule 4(A), which describes the SLD requirement, would also be consistent with the requirements of

[37] *Supra* note 3.

[38] 15 U.S.C. 78q–1(b)(3)(F).

[39] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

[40] 15 U.S.C. 78q–1(b)(3)(F).

[41] *Id.*

Section 17A(b)(3)(F) of the Act.[42] These proposed changes would make the rights and obligations of both NSCC and its Members under Rule 4(A) more transparent and easier to understand. A clearer rule supports the ability of Members to meet their obligations to provide NSCC with SLD when required. The liquidity provided to NSCC through the SLD allows it to complete end-of-day settlement in the event of the default of a Member. Therefore, by making the provisions of Rule 4(A) clearer, simpler and more transparent to Members, these proposed changes also support NSCC's compliance with the requirements of Section 17A(b)(3)(F) of the Act to assure the safeguarding of securities and funds which are in NSCC's custody or control or for which it is responsible.[43]

Rule 17Ad–22(e)(7)(i) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for NSCC in extreme but plausible market conditions.[44] Rule 17Ad–22(e)(7)(ii) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i) in each relevant currency for which NSCC has payment obligations owed to its Members.[45]

As described above, the proposal would strengthen NSCC's ability to maintain sufficient liquidity to complete end-of-day settlement in the event of the default of a Member. The proposal would do this by allowing NSCC to calculate and collect, when applicable, SLD every Business Day from those Members that pose the largest liquidity exposures to NSCC on that day. The proposal would also include a mechanism to allow NSCC to collect SLD on an intraday basis, including on the first Business Day of the Options Expiration Activity Period, when liquidity exposures are historically higher. These resources would be available to NSCC to complete end-of-day settlement in the event of the default of a Member. Further, SLD are currently, and would continue to be, held by NSCC at either its cash deposit account at the Federal Reserve Bank of New York, at a creditworthy commercial bank, or in other investments pursuant to the Clearing Agency Investment Policy.[46] Therefore, SLD would continue to be considered a qualifying liquid resource, as defined by Rule 17Ad–22(a)(14) under the Act,[47] and would support NSCC's ability to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i), as required by Rule 17Ad–22(e)(7)(ii). Additionally, the proposed alternative pro rata calculation of Supplemental Liquidity Obligations would provide NSCC with the flexibility to determine the total amount collected on a Business Day, while continuing to collect and hold sufficient liquidity to allow NSCC to complete end-of-day settlement in the event of the default of the Member with the largest payment obligations, as required by Rule 17Ad–22(e)(7)(i).[48] As such, this proposed change would support NSCC's ability to hold sufficient qualifying liquid resources to meet its minimum liquidity resource requirement under Rules 17Ad–22(e)(7)(i) and (ii).[49]

(B) Clearing Agency's Statement on Burden on Competition

NSCC believes that the proposed rule change could have an impact on competition. Specifically, NSCC believes the proposed changes could burden competition because they would require those Members that are identified as Supplemental Liquidity Providers to make an SLD to the Clearing Fund each Business Day, when applicable, rather than only monthly in connection with the expiration of stock options.

Members are currently subject to SLD requirements under Rule 4(A), and, while the proposed rule change could result in a Supplemental Liquidity Obligation on a more frequent basis, the impact study results, discussed above, show that the proposal would not have a significant impact on the frequency or amount of those requirements. The Supplemental Liquidity Obligations of Supplemental Liquidity Providers would be in direct relation to the specific liquidity exposures presented to NSCC by Members' daily activity. Therefore, Members that present the largest liquidity exposures to NSCC, regardless of the type of Member, currently have, and would continue to have, similar SLD requirements. The proposed alternative calculation of Supplemental Liquidity Obligations would provide NSCC with the flexibility to collect and hold sufficient liquidity to meet NSCC's regulatory obligations while allocating the Supplemental Liquidity Obligations on a pro rata basis among the Supplemental Liquidity Providers for that Business Day. This proposed change would treat each Supplemental Liquidity Provider equally when this alternative calculation is triggered.

Therefore, NSCC believes that any burden on competition imposed by the proposed changes would not be significant and, further, would be both necessary and appropriate in furtherance of NSCC's efforts to mitigate risks and meet the requirements of the Act,[50] as described in this filing and further below.

NSCC believes the above described burden on competition that may be created by the proposed changes to the SLD requirement would be necessary in furtherance of the purposes of the Act, specifically Section 17A(b)(3)(F) of the Act.[51] As discussed above, the proposed change would improve NSCC's ability to estimate its liquidity exposures in the calculation and collection of SLD by using daily activity rather than estimating potential exposures based on activity in a look-back period. In this way, the proposed change would improve NSCC's liquidity risk management by supplementing its liquidity resources that are available to it to complete end-of-day settlement in the event of the default of a Member. The proposed pro rata alternative calculation of SLD would allow NSCC to opt to collect only the largest Supplemental Liquidity Obligation calculated for that Business Day, while still meeting NSCC's applicable regulatory obligations. The proposed enhancements to its liquidity risk management would help NSCC assure the safeguarding of securities and funds

[42] *Id.*

[43] *Id.*

[44] 17 CFR 240.17Ad–22(e)(7)(i).

[45] 17 CFR 240.17Ad–22(e)(7)(ii). For purposes of Rule 17Ad–22(e)(7)(ii), ''qualifying liquid resources'' are defined in Rule 17Ad-22(a)(14) as including, in part, cash held either at the central bank of issue or at creditworthy commercial banks. *Supra* note 7.

[46] *See* Securities Exchange Act Release Nos. 79528 (December 12, 2016), 81 FR 91232 (December 16, 2016) (File Nos. SR–DTC–2016–007, SR–FICC–2016–005, SR–NSCC–2016–003); 84949 (December 21, 2018), 83 FR 67779 (December 31, 2018) (File Nos. SR–DTC–2018–012, SR–FICC–2018–014, SR–NSCC–2018–013).

[47] 17 CFR 240.17Ad–22(a)(14).

[48] 17 CFR 240.17Ad–22(e)(7)(i).

[49] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

[50] 15 U.S.C. 78q–1(b)(3)(I).

[51] 15 U.S.C. 78q–1(b)(3)(F).

which are in its custody or control or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[52]

NSCC believes the above described burden on competition that may be created by the proposed changes to the SLD requirement would be necessary in furtherance of the purposes of the Act, specifically Section 17A(b)(3)(F) of the Act.[53] As discussed above, the proposed change would improve NSCC's ability to estimate its liquidity exposures in the calculation and collection of SLD by using daily activity rather than estimating potential exposures based on activity in a look-back period. The proposal would also establish a monthly intraday SLD to address the additional liquidity exposures that are presented by monthly options expiration activity, and an optional intraday SLD that may be collected when NSCC deems appropriate. In aggregate, the total SLD collected would improve NSCC's liquidity risk management by supplementing its liquidity resources that are available to it to complete end-of-day settlement in the event of the default of a Member. The proposed pro rata alternative calculation of SLD would allow NSCC to opt to collect only the largest Supplemental Liquidity Obligation calculated for that Business Day, while still meeting NSCC's applicable regulatory obligations. The proposed enhancements to its liquidity risk management would help NSCC assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[54]

The proposal would strengthen NSCC's ability to maintain sufficient liquidity to complete end-of-day settlement in the event of the default of a Member by allowing NSCC to collect SLD each Business Day from those Members that pose the largest liquidity exposures to NSCC on that day. Further, SLD are currently, and would continue to be, cash deposits to NSCC's Clearing Fund, which meet the criteria to be considered qualifying liquid resources, as defined by Rule 17Ad–22(a)(14) under the Act.[55] The proposed alternative pro rata calculation would allow NSCC to continue to collect sufficient liquidity to meet the requirements of Rule 17Ad–22(e)(7)(i).[56] As such, this proposed change would support NSCC's ability to hold sufficient qualifying liquid resources to meet its minimum liquidity resource requirement under Rules 17Ad–22(e)(7)(i) and (ii).[57]

NSCC believes that the above described burden on competition that could be created by the proposed changes would be appropriate in furtherance of the purposes of the Act because such changes have been designed to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible, as described in detail above. Under both the current Rule 4(A) and the proposed changes to Rule 4(A), the SLD requirements are designed to require those Members whose settlement activity pose the largest liquidity exposures to NSCC to provide SLD in the amount of such exposures. The proposed changes to Rule 4(A) would better support NSCC by allowing it to calculate and collect, when applicable, SLD to address liquidity exposures that are presented by the activity of Supplemental Liquidity Providers each Business Day rather than only during monthly options expiration periods. The proposed rule change would improve NSCC's ability to measure these liquidity exposures by using daily activity rather than estimations based on past activity.

Therefore, because the proposed changes are designed to provide NSCC with a more accurate measure of the liquidity risks presented by Members' daily activity, NSCC believes the proposal would meet NSCC's risk management goals and its regulatory obligations. NSCC believes that it has designed the proposed rule change in an appropriate way in order to comply with NSCC's obligations under the Act. Therefore, as described above, NSCC believes the proposed changes are necessary and appropriate in furtherance of NSCC's obligations under the Act,[58] specifically Section 17A(b)(3)(F) of the Act[59] and Rules 17Ad–22(e)(7)(i) and (ii) under the Act.[60]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

[52] *Id.*

[53] 15 U.S.C. 78q–1(b)(3)(F).

[54] *Id.*

[55] 17 CFR 240.17Ad–22(a)(14).

[56] 17 CFR 240.17Ad–22(e)(7)(i).

[57] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

[58] 15 U.S.C. 78q–1(b)(3)(I).

[59] 15 U.S.C. 78q–1(b)(3)(F).

[60] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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–NSCC–2021–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2021–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE,

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2021–002 and should be submitted on or before April 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–05995 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91348; File No. SR–NASDAQ–2020–062]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment, No. 1, To Amend Listing Rules Applicable to Special Purpose Acquisition Companies Whose Business Plan Is To Complete One or More Business Combinations

March 18, 2021.

On September 3, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its listing rules to permit companies whose business plan is to complete one or more business combinations (''SPACs'' or ''Acquisition Companies'') 15 calendar days following the closing of a business combination to demonstrate that the SPAC has satisfied the applicable round lot shareholder requirement. The proposed rule change was published for comment in the **Federal Register** on September 22, 2020.[3]

On November 4, 2020, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On December 16, 2020, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On February 25, 2021, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the proposed rule change as originally filed. Amendment No. 1 to the proposed rule change was published for comment in the **Federal Register** on March 16, 2021.[8]

Section 19(b)(2) of the Exchange Act[9] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on September 22, 2020. The 180th day after publication of the Notice is March 21, 2021. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change as modified by Amendment No. 1, along with the comments received on the proposal and the Exchange's response. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,[10] designates May 20, 2021 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NASDAQ–2020–062) as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–05994 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91361; File No. SR–ICC–2021–004]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Governance Playbook

March 18, 2021.

I. Introduction

On January 29, 2021, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to update and formalize the ICC Governance Playbook. The proposed rule change was published for comment in the **Federal Register** on February 16, 2021.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The principal purpose of the proposed rule change is to update and formalize the ICC Governance Playbook.[4] Specifically, the proposed rule change would consolidate and summarize governance arrangements set forth in the ICC Clearing Rules

[61] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89897 (September 16, 2020), 85 FR 59574 (''Notice''). Comments received on the proposal are available on the Commission's website at: *https://www.sec.gov/comments/sr-nasdaq-2020-062/srnasdaq2020062.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 90340, 85 FR 71704 (November 10, 2020). The Commission designated December 21, 2020, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 90682, 85 FR 83113 (December 16, 2020).

[8] *See* Securities Exchange Act Release No. 91294 (March 10, 2021), 86 FR 14508 (March 16, 2021).

[9] 15 U.S.C. 78s(b)(2).

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Governance Playbook; Exchange Act Release No. 91090 (Feb. 9, 2021); 86 FR 9557 (Feb. 16, 2021) (''Notice'').

[4] The description that follows is substantially excerpted from the Notice, 86 FR at 9557.

(''Rules''), operating agreement, and other ICC policies and procedures within the Governance Playbook document. The Governance Playbook contains information regarding the governance structure at ICC, which includes the Board, committees, and management. The document is divided in six parts and sets out (i) the purpose of the document, (ii) an introduction to the ICC governance structure, (iii) information on the ICC Board of Managers (the ''Board,'' with each member a ''Manager''), (iv) descriptions of the committees at ICC, (v) descriptions of the special purpose committees at ICC, and (vi) a revision history of the Governance Playbook and an appendix that outlines the roles, responsibilities, and required skills of key senior management positions and provides an email template relating to the annual reconstitution of ICC's Risk Committee.

1. Purpose

ICC proposes to formalize and update the purpose section of the Governance Playbook. Specifically, the purpose section includes a statement that the governance guidelines set forth in the Governance Playbook are intended to comply with applicable Commission and Commodity Futures Trading Commission (''CFTC'') regulations. This statement would include an updated citation to a relevant CFTC Regulation.

2. Introduction to ICC Governance Structure

In the introduction section of the Governance Playbook, ICC proposes to formalize its general mission and describe its overall governance structure, comprised of its Board, committees and management. The introduction section reflects the Board-determined mission statement that ICC is to provide safe and sound central counterparty services to reduce systemic risk in an efficient and compliant manner while generating positive returns for shareholders. The introduction section also states that ICC's governance arrangements are clear and transparent, promote its safety and efficiency and support the stability of the broader financial system, other relevant public interest considerations and the objectives of relevant stakeholders.

3. Board of Managers

In this section of the Governance Playbook, ICC proposes to formalize the Board's sole responsibility for the control and management of ICC's operations, subject only to prior consultation rights of the ICC Risk Committee and the ICC Risk Management Subcommittee as described in Chapter 5 of its Rules. This section would clarify that ICC's officers, including the Chief Operating Officer, Chief Compliance Officer, Chief Risk Officer and General Counsel, are designated by the Board following a determination that they possess the requisite experience and skills to discharge their responsibilities and report to the ICC President. The section also formalizes additional reporting lines of certain ICC officers to ensure that relevant personnel have sufficient access to the Board, consistent with relevant regulation. Specifically, the Chief Compliance Officer has an additional reporting line directly to the Board, and the Chief Risk Officer has an additional reporting line directly to the Chairperson of the Risk Committee, who also is a Manager on the Board. This section of the Governance Playbook details how the Board guides management with respect to strategic planning and priority setting.

Additionally, this section of the Governance Playbook describes the composition of the Board, and specifies the fitness standards required of each Manager, as well as the fitness standards and qualifications of the Board as a whole. ICC represents that it includes such procedures in the Governance Playbook to ensure that the Board consists of suitable individuals having appropriate skills and incentives and that Managers have the appropriate experience, skills, and integrity necessary to discharge their Board responsibilities.[5] The Governance Playbook describes the election procedures for new Managers and specifies who is responsible for electing new Managers and for ensuring such Managers meet the fitness standards. The Governance Playbook also contains information regarding scheduling of meetings and meeting frequency, and lists all documents relevant to Board operations. The Governance Playbook sets forth the process for determining the independence of those Managers who are required to be independent. Additionally, the document lists the independence qualifications considered as part of such independence determinations and describes the annual questionnaire process each independent Manager is required to complete. The Governance Playbook also describes the self-evaluation survey process by which ICC reviews the performance of the Board and its individual Managers on an annual basis in accordance with applicable regulation.

The Governance Playbook also contains information on required disclosures of the Board's major decisions under relevant regulations. The Governance Playbook formalizes arrangements by which all major decisions of the Board are clearly disclosed to clearing members, other relevant stakeholders, and ICC's regulators. In addition, the Governance Playbook provides governance procedures for clearly disclosing to the public the Board's major decisions that have a broad market impact. With respect to information made available to the public, ICC posts on its website relevant rules and material procedures and documents. ICC maintains a comprehensive public Disclosure Framework that describes its material rules, policies, and procedures regarding its legal, governance, risk management, and operating framework. ICC updates the Disclosure Framework every two years or more frequently following material changes to ICC's systems or environment in which it operates.

Further, the Governance Playbook describes the Board's role in reviewing the performance and compensation of senior managers who are responsible for executing the Board's decisions throughout the year. As part of this process, the Board will consider, in accordance with relevant regulation, whether senior management continues to have the appropriate experience, skills, and integrity necessary to discharge their responsibilities.

4. Committees

In this section of the Governance Playbook, ICC would formalize information regarding the roles and responsibilities of the various committees at ICC, including the Audit Committee, Risk Committee, Risk Management Subcommittee, Advisory Committee, Futures Commission Merchant (FCM) Executive Council, Participant Review Committee, Credit Review Subcommittee, New Initiatives Approval Committee, Operations Working Group, Trading Advisory Group, Business Continuity Planning (BCP) and Disaster Recovery (DR) Oversight Committee of the Compliance Committee, Risk Working Group, Compliance Committee, and Steering Committee. The Governance Playbook further details and updates the membership composition and meeting frequency for each committee and contains a listing of all relevant committee documents (including, as applicable, a charter, meeting minutes,

[5] *See* Notice, 86 FR at 9557.

and agendas). As applicable, the Governance Playbook details procedures for electing new members to a committee. The Governance Playbook also includes procedures for the annual Audit Committee performance review and the annual reconstitution of the Risk Committee.

5. Special Purpose Committees

This section of the Governance Playbook would formalize information regarding ICC's special purpose committees, including the Business Conduct Committee, Regional CDS Committees, and the CDS Default Committee. The Governance Playbook contains a brief description of each special purpose committee, details membership composition and meeting frequency, and lists relevant committee documents. As applicable, the Governance Playbook contains information regarding the appointment of new members.

6. Revision History and Appendix

Finally, the Governance Playbook includes a revision history to document the date, versions, and revisions to the Governance Playbook document. An appendix follows the revision history with relevant detailed information, including a record of the roles, responsibilities, and required skills of key senior management in Appendix 1, and an email template relating to the annual reconstitution of the ICC Risk Committee composition in Appendix 2.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[6] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] and Rules 17Ad–22(e)(2) and (e)(23)(i), (iv), and (v) thereunder.[8]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as ICC, be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and to protect the public interest.[9]

As noted above, the principal purpose of the proposed rule change is to formalize and update the Governance Playbook as a single reference document of governance guidelines that consolidates and summarizes the ICC governance arrangements set forth in the Rules, operating agreement, and a number of written ICC policies and procedures. The introduction section of the Governance Playbook states its intended purposes to ensure that ICC's governance arrangements are clear and transparent, promote ICC's safety and efficiency and support the stability of the broader financial system, other relevant public interest considerations and the objectives of relevant stakeholders.

The Governance Playbook also reflects the Board's sole responsibility for the control and management of ICC's operations, subject only to prior consultation rights of the ICC Risk Committee and the ICC Risk Management Subcommittee as described in Chapter 5 of ICC's Rules. The Governance Playbook describes the composition of the Board and the election procedures for new Managers, provides information regarding scheduling of meetings and meeting frequency, and updates required disclosures under relevant regulations of the Board's major decisions. The Governance Playbook describes the role of the Board in reviewing the performance and compensation of senior managers responsible for executing the Board's decisions, information regarding the roles and responsibilities of the various committees at ICC, information regarding ICC's special purpose committees, and a revision history and an appendix with relevant information that outlines the roles, responsibilities, and required skills of key senior management positions and provides an email template relating to the annual reconstitution of ICC's Risk Committee.

Governance arrangements are critical to the sound operation of clearing agencies.[10] Specifically, clear and transparent governance documents promote accountability and reliability in the decisions, rules, and procedures of a clearing agency.[11] Clear and transparent governance documents also provide interested parties, including owners, members, and general members of the public, with information about how a clearing agency's decisions are made and what the rules and procedures are designed to accomplish.[12] Further, the decisions, rules, and procedures of a clearing agency are important, as they can have widespread impact, affecting multiple market members, financial institutions, markets, and jurisdictions.[13]

The Commission believes that the proposed rule change would provide ICC stakeholders with a better understanding of how ICC makes decisions that could ultimately affect them and, potentially, the broader financial system. The proposed rule change would also help the Board, as well as ICC's management, employees, and members, understand the roles and responsibilities of ICC officers, committees and subcommittees. The Commission further believes that the Governance Playbook should enhance the clarity and transparency of ICC's governance structure and facilitate the efficiency and effectiveness of ICC's governance procedures by providing a single, consolidated summary document of governance guidelines for ease of reference. For these reasons, the proposed rule change should facilitate ICC's ability to provide clearing services that are supported by, and consistent with, clear and transparent governance arrangements that comply with relevant regulations and internal policies and procedures, thereby helping ICC maintain prudent risk management processes to promote the prompt and accurate clearance of settlement and securities transactions and derivative agreements, contracts and transactions cleared by ICC, to assure the safeguarding of securities and funds in the custody or control of ICC, and to protect the public interest.[14]

For these reasons, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[15]

B. Consistency With Rule 17Ad–22(e)(2) Under the Act

Rule 17Ad–22(e)(2) under the Act requires each covered clearing agency to establish, implement, maintain and

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(e)(2) and (e)(23)(i), (iv), and (v).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] Securities Exchange Act Release No. 71699 (May 21, 2014), 79 FR 29508, 29521 (May 22, 2014) (''Covered Clearing Agency Standards Proposing Release'').

[11] Securities Exchange Act Release No. 64017 (March 3, 2011), 76 FR 14472 (March 16, 2011) at 14488.

[12] *Id.*

[13] Covered Clearing Agency Standards Proposing Release, 79 FR at 29521.

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 15 U.S.C. 78q–1(b)(3)(F).

enforce written policies and procedures reasonably designed to provide for governance arrangements that, among other things, are clear and transparent, establish that the board of directors and senior management have appropriate experience and skills to discharge their duties and responsibilities, and specify clear and direct lines of responsibility.[16] As stated above, the proposed rule change would update and formalize the Governance Playbook to reflect the governance arrangements in place at ICC, including those that specify: the Board's responsibility for the control and management of ICC's operations, the composition of the Board, the election procedures for new Managers, the fitness standards and qualifications required of each Manager and the Board as a whole, and the process to review the performance of ICC's senior managers. The Commission believes that these aspects of the proposed rule change should help ICC ensure that the Board and individual Managers, as well as ICC's senior managers, including the Chief Operating Officer, Chief Compliance Officer, Chief Risk Officer and General Counsel, have the appropriate experience and skills to discharge their duties and responsibilities. Further, the Commission believes the Governance Playbook specifies clear and direct lines of responsibility by identifying reporting lines of certain ICC officers to ensure they have sufficient access to the Board, consistent with relevant regulation. For these reasons, the Commission believes that the proposed rule change is consistent with Rule 17Ad–22(e)(2)[17] under the Act.

C. Consistency With Rule 17Ad–22(e)(23)(i), (iv), and (v) Under the Act

Rule 17Ad–22(e)(23)(i), (iv), and (v) under the Act requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for, among other things, (1) publicly disclosing all relevant rules and material procedures, including key aspects of its default rules and procedures, (2) a comprehensive public disclosure that describes its material rules, policies, and procedures regarding its legal, governance, risk management, and operating framework, accurate in all material respects at the time of publication, and (3) updating the public disclosure every two years, or more frequently following changes to its system or the environment in which it operates to the extent necessary to ensure statements previously provided remain accurate in all material respects.[18] As noted above, the Governance Playbook reflects updated arrangements by which all major decisions of the Board are clearly disclosed to clearing members, other relevant stakeholders, and ICC's regulators. In addition, the Governance Playbook provides governance procedures for clearly disclosing to the public the Board's major decisions that have a broad market impact. With respect to information made available to the public, the Governance Playbook specifies that ICC posts on its website all relevant rules and material procedures and documents, as required by applicable regulations. The Commission believes that these aspects of the Governance Playbook should help ensure that ICC publicly discloses all relevant rules and material procedures, including key aspects of its default rules and procedures.

In addition, the Governance Playbook specifies that ICC maintains a comprehensive public Disclosure Framework that describes its material rules, policies, and procedures regarding its legal, governance, risk management, and operating framework. The Governance Playbook formalizes the process by which ICC Legal will update the public Disclosure Framework every two years or more frequently following material changes to ICC's systems or environment in which it operates, including updates for major decisions of the Board with a broad market impact. The Commission believes that these aspects of the Governance Playbook should help ensure ICC's compliance with its regulatory obligation to provide a comprehensive public disclosure that is updated every two years or more frequently following material changes.

For these reasons, the Commission believes that the proposed rule change is consistent with Rule 17Ad–22(e)(23)(i), (iv), and (v)[19] under the Act.

D. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[20] and Rules 17Ad–22(e)(2) and (e)(23)(i), (iv), and (v) thereunder.[21]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[22] that the proposed rule change (SR–ICC–2021–004), be, and hereby is, approved.[23]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06002 Filed 3–23–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91347; File No. SR–NSCC–2021–801]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Advance Notice To Amend the Supplemental Liquidity Deposit Requirements

March 18, 2021.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Act''),[2] notice is hereby given that on March 5, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice as described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This advance notice consists of modifications to Rule 4(A) (Supplemental Liquidity Deposits) of the NSCC's Rules & Procedures (''Rules'') to (1) calculate and collect, when applicable, supplemental

[16] 17 CFR 240.17Ad–22(e)(2).

[17] 17 CFR 240.17Ad–22(e)(2).

[18] 17 CFR 240.17Ad–22(e)(23)(i), (iv), and (v).

[19] 17 CFR 240.17Ad–22(e)(23)(i), (iv) and (v).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] 17 CFR 240.17Ad–22(e)(2) and (e)(23)(i), (iv), and (v).

[22] 15 U.S.C. 78s(b)(2).

[23] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[24] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] NSCC filed this advance notice as a proposed rule change (File No. SR–NSCC–2021–002) with the Commission pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, 17 CFR 240.19b–4. A copy of the proposed rule change is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.*

liquidity deposits to NSCC's Clearing Fund (''Supplemental Liquidity Deposits,'' or ''SLD'') on a daily basis, rather than only in advance of the monthly expiration of stock options (defined in Rule 4(A) as ''Options Expiration Activity Period''); (2) establish an intraday SLD obligation that would apply in advance of Options Expiration Activity Periods and may also be applied on other days, as needed; (3) implement an alternative pro rata calculation of Members' SLD obligations that may apply in certain circumstances; and (4) simplify and improve the transparency of the description of the calculation, collection and treatment of SLD in Rule 4(A) of the Rules, as described in greater detail below.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

(B) Advance Notice Filed Pursuant to Section 806(e) of the Clearing Supervision Act

Description of Proposed Change

NSCC is proposing to enhance its management of the liquidity risks that arise in or are borne by it by calculating and collecting, when applicable, SLD on each Business Day rather than only in advance of Options Expiration Activity Periods. The proposed changes would establish an intraday SLD obligation that would apply in advance of Options Expiration Activity Periods and may be applicable on any Business Day, as needed. The proposal would also implement an alternative pro rata calculation of Members' SLD obligations that may apply in certain circumstances. Finally, in connection with these proposed changes, NSCC would simplify and improve the description of the calculation, collection and treatment of SLD in Rule 4(A). These proposed rule changes are described in greater detail below.

(i) Overview of the NSCC Liquidity Risk Management

NSCC, along with its affiliates, The Depository Trust Company and Fixed Income Clearing Corporation, maintains a Clearing Agency Liquidity Risk Management Framework (''Framework'') that sets forth the manner in which NSCC measures, monitors and manages the liquidity risks that arise in or are borne by it.[5] As a central counterparty, NSCC's liquidity needs are driven by the requirement to complete end-of-day money settlement, on an ongoing basis, in the event NSCC ceases to act for a Member (hereinafter referred to as a ''default'').[6] If a Member defaults, NSCC needs to complete settlement of guaranteed transactions on the defaulted Member's behalf from the date of default through the remainder of the settlement cycle. As such, and as provided for in the Framework, NSCC measures the sufficiency of its qualifying liquid resources through daily liquidity studies across a range of scenarios, including amounts NSCC would need in the event the Member or Member family with the largest aggregate liquidity exposure defaults.[7]

As described in the Framework, NSCC seeks to maintain qualifying liquid resources in an amount sufficient to cover this risk. These resources currently include (1) cash deposits to the NSCC Clearing Fund; [8] (2) the proceeds of the issuance and private placement of (a) short-term, unsecured notes in the form of commercial paper and extendable notes (''Commercial Paper Program''),[9] and (b) term debt (''Term Debt Issuance''); [10] (3) cash that would be obtained by drawing on NSCC's committed 364-day credit facility with a consortium of banks (''Line of Credit''); [11] and (4) Supplemental Liquidity Deposits, collected pursuant to Rule 4(A), which are currently designed to cover the heightened liquidity exposure arising around Options Expiration Activity Periods, required from those Members whose activity would pose the largest liquidity exposure to NSCC.[12]

NSCC's liquidity risk management has evolved in order to adhere to regulatory requirements that were adopted after Rule 4(A) was implemented.[13] As part of its efforts to maintain compliance with these requirements, NSCC has continued to strengthen its liquidity risk management strategy, including through growing and diversifying its qualifying liquid resources. In connection with these ongoing efforts, NSCC is proposing to calculate and collect, when applicable, SLD every Business Day rather than only in connection with Options Expiration Activity Periods. This proposed change would improve NSCC's ability to measure and monitor its daily liquidity exposures and allow it to collect additional qualifying liquid resources from Members whose activity poses the largest liquidity exposure to NSCC in connection with their daily settlement activity, and not only during Options Expiration Activity Periods. By measuring SLD against Members' actual daily settlement activity and NSCC's available qualifying liquid resources, the proposal would also help mitigate risks to NSCC that it is unable to secure adequate default liquidity from other sources in an amount necessary to meet its liquidity needs. For example, the proposal would help mitigate the risks that could arise if investor demand for the short-term notes issued under the Commercial Paper Program weakens, there is limited investor demand for term debt issued pursuant to a Term Debt Issuance, or NSCC is unable to

[4] Capitalized terms not defined herein are defined in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] *See* Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (File Nos. SR–DTC–2017–004; SR–FICC–2017–008; SR–NSCC–2017–005).

[6] The Rules identify when NSCC may cease to act for a Member and the types of actions NSCC may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a Member's access to NSCC's services in the event that Member defaults on a financial or other obligation to NSCC. *See* Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 4.

[7] ''Qualifying liquid resources'' are defined in Rule 17Ad–22(a)(14) under the Act. 17 CFR 240.17Ad–22(a)(14). The Framework also includes a definition of qualifying liquid resources that incorporates by reference Rule 17Ad–22(a)(14). *See supra* note 5.

[8] *See* Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

[9] *See* Securities Exchange Act Release Nos. 75730 (August 19, 2015), 80 FR 51638 (August 25, 2015) (File No. SR–NSCC–2015–802); 82676 (February 9, 2018), 83 FR 6912 (February 15, 2018) (File No. SR–NSCC–2017–807).

[10] *See* Securities Exchange Act Release No. 88146 (February 7, 2020), 85 FR 8046 (February 12, 2020) (File No. SR–NSCC–2019–802).

[11] *See* Securities Exchange Act Release No. 80605 (May 5, 2017), 82 FR 21850 (May 10, 2017) (File Nos. SR–DTC–2017–802; SR–NSCC–2017–802).

[12] *See* Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *supra* note 4. *See also* Securities Exchange Act Release Nos. 70999 (December 5, 2013), 78 FR 75413 (December 11, 2013) (File No. SR–NSCC–2013–02); 71000 (December 5, 2013), 78 FR 75400 (December 11, 2013) (File No. SR–NSCC–2013–802).

[13] *See* 17 CFR 240.17Ad-22(e)(7). *See also supra* note 5.

renew its Line of Credit at the targeted amount.

NSCC is also proposing to establish an intraday SLD obligation that would apply on the first Business Day of the Options Expiration Activity Period to allow NSCC to continue to mitigate the additional liquidity exposures presented by options activity. The proposal would also permit NSCC to calculate and collect an intraday SLD on any Business Day when, for example, NSCC believes that it is necessary to collect an additional SLD from a Member whose activity presents relatively greater risks to the NSCC on an overnight basis.

NSCC is also proposing to implement an alternative calculation of Members' SLD requirements that would be their pro rata allocation of the largest SLD obligation calculated for that Business Day. This proposed change would provide NSCC with the discretion, in certain circumstances, to allocate its largest liquidity need on a Business Day among those Members that are required to pay SLD on that day rather than collect separate SLD from those Members, as described in greater detail below.

In connection with these proposed changes, NSCC would also simplify the description of the calculation of SLD in Rule 4(A) in order to improve the transparency of this Rule, as described in greater detail below.

(ii) Current Rule 4(A) and Supplemental Liquidity Deposits

Under the current Rule 4(A), NSCC collects SLD from the unaffiliated Members and families of affiliated Members (each defined as an ''Affiliated Family'') that incur the largest gross settlement debits over the settlement cycle during times of increased trading activity that arise around Options Expiration Activity Periods.[14]

Under the current Rule 4(A), NSCC performs calculations on a monthly basis, no later than the fifth day prior to an Options Expiration Activity Period, using activity observed over a 24-month lookback period (defined in the current Rule 4(A) as the ''Special Activity Lookback Period'').[15] These calculations determine (1) NSCC's largest liquidity need that exceeded its liquidity resources (defined in Rule 4(A) as ''Special Activity Peak Liquidity Need''); and (2) the 30 (or fewer) unaffiliated Members or Affiliated Families (defined in Rule 4(A) as ''Special Activity Liquidity Providers'') that presented the largest liquidity exposures to NSCC (defined in Rule 4(A) as ''Special Activity Peak Liquidity Exposures'').[16] To determine the SLD obligations of each Special Activity Liquidity Provider, the calculated Special Activity Peak Liquidity Need of NSCC is allocated to these Special Activity Liquidity Providers in proportion to the Special Activity Peak Liquidity Exposures they presented to NSCC during the Special Activity Lookback Period. Special Activity Liquidity Providers are required to fund their SLD obligations by the close of business on the second day prior to the applicable Options Expiration Activity Period.[17] SLD may be returned to Special Activity Liquidity Providers seven Business Days after the end of the applicable Options Expiration Activity Period.[18]

On any Business Day between calculation dates, if NSCC observes an increase in its liquidity needs that exceeds a predetermined threshold amount, it may call for an additional deposit from the Member whose increase in activity levels caused (or was the primary cause of) such increased liquidity need (defined in Rule 4(A) as ''Special Activity Liquidity Call'').[19] NSCC may hold deposits made pursuant to a Special Activity Liquidity Call for up to 90 days after the deposit is made.[20] Members are also permitted to submit a cash deposit to the Clearing Fund as a ''Special Activity Prefund Deposit'' no later than the first Business Day of an Options Expiration Activity Period.[21] NSCC understands that a Member would generally make a Special Activity Prefund Deposit when it anticipates that its Special Activity Peak Liquidity Exposure during that period may be greater than the amount calculated by NSCC pursuant to Rule 4(A) based on activity in the Special Activity Lookback Period.[22]

The current Rule 4(A) also addresses how SLD are treated generally.[23] Specifically, while SLD are part of a Member's actual deposit to the Clearing Fund, they are made in addition to a Member's Required Fund Deposit and any other deposit of any such Member to the Clearing Fund.[24] Rule 4(A) also provides that SLD may be invested and may be used to satisfy a loss or liability as provided for in Sections 3 or 13 of Rule 4, and addresses NSCC's obligation to provide Members with certain information that would help them anticipate their potential SLD requirements.[25]

(iii) Amended Rule 4(A) and Proposed Daily Calculation of Supplemental Liquidity Deposits

In order to better address the liquidity risks presented by Members' daily activity, NSCC is proposing to amend Rule 4(A) to calculate and collect, when applicable, SLD every Business Day rather than only in connection with the monthly expiration of stock options. While the monthly expiration of stock options does present larger liquidity exposures to NSCC, NSCC may also face large liquidity exposures from Members' daily activity, particularly during volatile market conditions. By allowing NSCC to calculate and collect SLD daily, NSCC would be able to identify these exposures based on Members' daily activity rather than estimate its upcoming liquidity exposures based on activity observed over a lookback period. The proposal would help NSCC mitigate its liquidity risks through the daily collection of SLD from those Members' whose daily activity would, in the event of the Member's default, create a potential liquidity need that is in excess of NSCC's available qualifying liquid resources. The proposal would also permit NSCC to return SLD to Members on the Business Day following the day those deposits are collected and would remove the current requirement that SLD be held for up to 90 days.

In order to implement this proposed change to the timing of the SLD, NSCC would make a number of changes to Rule 4(A), described below. The proposed changes to Rule 4(A) would implement a daily calculation and collection of SLD, simplify and clarify the calculations done in connection with the SLD requirements, and enhance the disclosures of the SLD requirements. Despite these proposed changes, the structure of Rule 4(A) and the fundamental mechanics of the SLD requirements would be unchanged.

[14] *See* Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *supra* note 4.

[15] *See id.*

[16] *See* Section 3 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[17] *See* Section 4 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[18] *See* Section 9 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[19] *See* Section 7 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[20] *See* Section 10 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[21] *See* definition of ''Special Activity Prefund Deposit'' in Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[22] *See id.*

[23] *See* Section 13 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[24] *See* Section 13(b) of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[25] *See* Section 13(c) and Section 14 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

Proposed Daily Calculation of Supplemental Liquidity Deposits

Supplemental Liquidity Providers. Under the proposed Rule 4(A), each Business Day NSCC would determine the 30 (or fewer) Members (each such Member a ''Supplemental Liquidity Provider'') that had the ''Peak Liquidity Need,'' which would be defined as the largest Daily Liquidity Need that NSCC would have for that Member or Affiliated Family in a ''Lookback Period.'' [26] For purposes of this calculation, Daily Liquidity Need would be defined as the amount of liquid resources needed to effect the settlement of NSCC's payment obligations as a central counterparty over a three day settlement cycle, assuming the default of that Member on that day.

As described above, Supplemental Liquidity Providers are currently identified by reviewing Members' Special Activity Peak Liquidity Exposures over the Lookback Period. Under the proposed approach, NSCC would base this determination on Members' Peak Liquidity Need, which would continue to identify those Members whose activity posed the largest liquidity risks to NSCC during the Lookback Period. The proposed approach would no longer require a calculation using NSCC's available liquid resources on each day in the Lookback Period but would use a simpler approach by looking only at liquidity need. The proposed approach to use a simpler calculation would reduce the risk of error and would clarify the description of how NSCC would identify Supplemental Liquidity Providers in the proposed Rule 4(A), making it more predictable to Members.

Supplemental Liquidity Obligation. After NSCC determines the Supplemental Liquidity Providers, NSCC would then determine if any of the Supplemental Liquidity Providers would be required to pay an SLD on that Business Day. The proposed Rule 4(A) would use a simplified calculation by determining if the Daily Liquidity Need for each Supplemental Liquidity Provider on that Business Day exceeds the sum of NSCC's qualifying liquid resources available to NSCC on that day, assuming stressed market conditions (described below) (defined in the proposed Rule 4(A) as ''Qualifying Liquid Resources''). The result of that calculation would be a Supplemental Liquidity Provider's SLD requirement (defined in the proposed Rule 4(A) as a ''Supplemental Liquidity Obligation'') for that day. If the Daily Liquidity Need of a Supplemental Liquidity Provider does not exceed NSCC's Qualifying Liquid Resources on that day, then it would not have a Supplemental Liquidity Obligation.

Because this calculation would be done at the start of each Business Day (as discussed further below), it would be based on the Qualifying Liquid Resources, including Required Fund Deposits to the Clearing Fund, available to NSCC as of the end of the prior Business Day. Additionally, in order to anticipate market conditions that could cause Qualifying Liquid Resources to be unavailable on that day, NSCC would apply stress scenarios in determining its total Qualifying Liquid Resources for purposes of Rule 4(A). Currently, NSCC applies stress scenarios in determining the Special Activity Daily Liquidity Need and, in practice, they are currently applied to the Other Qualifying Liquid Resources in this calculation under the current Rule 4(A).[27] The proposed change would allow NSCC to continue to assume stressed markets in its SLD calculations, which protects it against unexpected market events.[28] The proposed changes to Rule 4(A) would make it clearer how these stress scenarios are applied.

Under this proposed calculation, NSCC would no longer need to estimate the potential liquidity need a Member's activity could pose to NSCC based on activity that settled in the Lookback Period. Instead, the Supplemental Liquidity Obligation of a Member would be calculated based on the actual liquidity exposure that its daily activity would pose to NSCC on that particular day in the event of that Member's default. The proposed change provides both NSCC and Members with a more reliable measure of the liquidity risks posed to NSCC by its Members' daily settlement activity in calculating SLD requirements.

Each Supplemental Liquidity Provider that has a Supplemental Liquidity Obligation on a Business Day would receive a notice from NSCC of the amount of its Supplemental Liquidity Obligation and would be required to make a deposit in that amount to the Clearing Fund within one hour of such notice. The proposed timing of funding a Supplemental Liquidity Obligation would mirror the current requirement that is applied to Members' Required Fund Deposits, which is also calculated and collected daily, and must be funded within one hour of demand.[29] Specifically, NSCC expects to deliver notification of Supplemental Liquidity Obligations to Supplemental Liquidity Providers by around 8:30 a.m. ET each Business Day, with deposits required by no later than 9:30 a.m. ET.

Proposed Pro Rata Calculation of Supplemental Liquidity Obligations. As an alternative to the calculation of Supplemental Liquidity Obligations described above, proposed Rule 4(A) would also state that, in the event two or more Supplemental Liquidity Providers have a Supplemental Liquidity Obligation of more than $2 billion on a Business Day, calculated pursuant to the calculation described above, NSCC may determine the Supplemental Liquidity Obligation of all Supplemental Liquidity Providers on that day would be their pro rata share of the largest Supplemental Liquidity Obligation calculated on that Business Day.[30]

This proposed alternative calculation of the Supplemental Liquidity Obligations would provide NSCC with the option of collecting only the largest SLD calculated on a Business Day, allocated among each of the Supplemental Liquidity Providers. The purpose of this proposed provision is to provide NSCC with the option of collecting enough funds to meet its regulatory requirements in circumstances when the aggregate

[26] The ''Lookback Period'' would continue to be defined as 24 months, or a longer period as determined by NSCC in its discretion. NSCC may adjust the Lookback Period if, for example, unusual activity observed in the Lookback Period is not an appropriate indicator of future settlement activity and causes a Member to be a Supplemental Liquidity Provider. *See* Section 2 (Defined Terms) of Rule 4(A), *id.*

[27] Current Rule 4(A) uses the defined term ''Other Qualifying Liquid Resources'' to refer to NSCC's qualifying liquid resources other than the Clearing Fund and the Line of Credit. *See* Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

[28] NSCC would apply the same stress scenarios that it currently applies, which include the market shocks of 1987, and removing the largest commitment to the Line of Credit, excess deposits to the Clearing Fund on deposit and proceeds from issued commercial paper that is maturing within five Business Days from NSCC's Qualifying Liquid Resource. Any changes to these stress scenarios would be announced by an Important Notice posted to NSCC's website.

[29] *See* Section II(B) of Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

[30] As an example, the Supplemental Liquidity Obligations for three Supplemental Liquidity Providers on a Business Day are—Member A: $6 billion, Member B: $2 billion and Member C: $1 billion. If NSCC determines, in its sole discretion, to calculate their Supplemental Liquidity Obligations on a pro-rata basis, then their Supplemental Liquidity Obligations would be—Member A: $4 billion (or 6/9 of the largest Supplemental Liquidity Obligation of $6 billion), Member B: $1.3 billion (or 2/9 of the $6 billion) and Member C: $700 million (or 1/9 of the $6 billion). The notice provided to each Supplemental Liquidity Provider on that Business Day would inform those Members that this pro-rata calculation was applied.

Supplemental Liquidity Obligations on a particular day would significantly exceed that amount. Therefore, NSCC has structured this provision to be available only if two or more Supplemental Liquidity Providers owe SLD of more than $2 billion. NSCC has never had two more Supplemental Liquidity Providers owe more than $2 billion in SLD on a calculation date since Rule 4(A) was adopted. Therefore, NSCC believes this alternative calculation would only be available in very limited circumstances. Furthermore, NSCC believes the threshold of $2 billion is appropriate as it would only permit this alternative calculation in circumstances when it would have a material impact on the allocation of Supplemental Liquidity Obligations among the Supplemental Liquidity Providers.

In such circumstances, when multiple Members have relatively large Supplemental Liquidity Obligations of more than $2 billion, NSCC would have the option to determine if it is appropriate to collect the largest SLD calculated for that Business Day, divided pro rata among the Supplemental Liquidity Providers rather than collect the each of the Supplemental Liquidity Obligations of those firms. NSCC may determine, for example, that, in certain market conditions, this approach would be appropriate to alleviate liquidity pressures on Supplemental Liquidity Providers. This alternative calculation would allow NSCC to collect sufficient qualifying liquid resources to meet its regulatory obligations with respect to liquidity risk management without requiring all of the Supplemental Liquidity Providers to fund the total amount of their calculated Supplemental Liquidity Obligation on that Business Day.[31]

Intraday Supplemental Liquidity Calls. The proposed Rule 4(A) would also establish Intraday Supplemental Liquidity Calls that would replace the current Special Activity Liquidity Calls. The existing Special Activity Liquidity Calls are designed to address increases in NSCC's liquidity need between calculation dates. The proposed Intraday Supplemental Liquidity Calls would serve a similar function, allowing NSCC to calculate and collect additional SLD on an intraday basis if a Supplemental Liquidity Provider's increased activity levels or projected settlement activity causes NSCC's Daily Liquidity Need to exceed NSCC's Qualifying Liquid Resources. This proposed provision would assist NSCC in mitigating increased liquidity exposures in specified circumstances.

First, proposed Rule 4(A) would establish a monthly Intraday Supplemental Liquidity Call that is calculated and collected, when applicable, on the first Business Day of an Options Expiration Activity Period, which is typically a Friday.[32] This Intraday Supplemental Liquidity Call would be calculated as the difference between (1) NSCC's Daily Liquidity Need, recalculated to account for both actual settlement activity submitted to NSCC over the course of Business Day and projected activity in stock options that is expected to be submitted to NSCC[33] and (2) NSCC's Qualifying Liquid Resources. Settlement activity may net with (and offset) the activity that NSCC uses in re-calculating the Daily Liquidity Need. In order to account for any potential offsetting settling activity, NSCC would adjust the re-calculated Daily Liquidity Need using an estimated netting percentage that is based on each Supplemental Liquidity Provider's average percentage of netting observed over the prior 24 months. Under this proposed provision, NSCC would adjust the amount of SLD it collects in order to mitigate the increased liquidity exposures related to the monthly expiration of stock options.

Second, proposed Rule 4(A) would allow NSCC to call for additional SLD on an intraday basis on any Business Day if a Supplemental Liquidity Provider's increased activity levels causes NSCC's Daily Liquidity Need to exceed NSCC's Qualifying Liquid Resources and NSCC determines, in its sole discretion, that it is appropriate to require an additional intraday SLD from that Supplemental Liquidity Provider in order to mitigate those additional liquidity exposures. Under this proposed change, NSCC would have the ability to make an Intraday Supplemental Liquidity Call on any Business Day. The amount of an Intraday Supplemental Liquidity Call would be the difference between NSCC's Daily Liquidity Need, recalculated for that Business Day taking into account any increase in settlement activity, and NSCC's Qualifying Liquid Resources. This proposed provision would allow NSCC to adjust the amount of SLD it collects for a Business Day in circumstances when NSCC believes it is necessary to accelerate the collection of additional SLD from Supplemental Liquidity Providers whose activity may present relatively greater risks to the NSCC on an overnight basis. NSCC would determine if an Intraday Supplemental Liquidity Call is appropriate based on a variety of factors and circumstances, including, but not limited to, an assessment of a Supplemental Liquidity Provider's ability to meet its projected settlement or Supplemental Liquidity Obligations and estimates of settlement activity that could offset settlement exposures and are not reflected in NSCC's liquidity estimates.

Returns of SLD and Miscellaneous Matters. Proposed Rule 4(A) would provide that NSCC would return SLD, including any SLD funded pursuant to an Intraday Supplemental Liquidity Call, on the next Business Day unless such amounts are held longer by NSCC pursuant to proposed Section 12a of Rule 4(A), as described below. Under the current Rule 4(A), NSCC may hold SLD for up to seven Business Days after the end of the applicable Options Expiration Activity Period and may hold SLD funded pursuant to a Special Activity Liquidity Call for up to 90 days after such deposit is made. Under the proposed change, because NSCC would recalculate the Supplemental Liquidity Obligations each Business Day, NSCC would no longer need to hold SLD for these extended periods.

NSCC would amend proposed Section 12a (currently Section 13a) of Rule 4(A) to clarify that SLD, as part of Members' actual deposit to the Clearing Fund, would be subject to the provision of Section 9 of Rule 4. Section 9 of Rule 4 addresses NSCC's right to withhold all or any part of any excess deposit of a Member if such Member has been placed on the Watch List pursuant to the Rules or if NSCC determines that the Member's anticipated activities in NSCC in the near future may reasonably be expected to be materially different than its activities of the recent past.[34] Current

[31] Rule 17Ad–22(e)(7)(i) under the Act requires, in part, that NSCC maintain sufficient liquid resources at the minimum to effect same-day settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios, including the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions. 17 CFR 240.17Ad–22(e)(7)(i).

[32] The proposed Rule 4(A) will retain the existing definition of an Options Expiration Activity Period for purposes of this monthly Intraday Supplemental Liquidity Call.

[33] Each Business Day, NSCC receives information regarding projected settlement activity from The Options Clearing Corporation pursuant to a Stock and Futures Settlement Agreement (''OCC Accord''). The OCC Accord provides for the clearance and settlement of exercises and assignments of options on eligible securities or the maturity of eligible stock futures contracts through NSCC. *See* Securities Exchange Act Release No. 81260 (July 31, 2017), 82 FR 36484 (August 4, 2017) (File Nos. SR–NSCC–2017–803; SR–OCC–2017–804).

[34] For example, this may occur when an index rebalancing occurs shortly after a month-end

Section 13a of Rule 4(A) addresses how SLD are treated pursuant to other Rules, particularly Rule 4, which addresses Members' deposits to the Clearing Fund. While this proposal would not change NSCC's rights with respect to these funds, it would provide Members with greater transparency into how SLD are treated under Rule 4.

NSCC would also amend the provision in Rule 4(A) that addresses when SLD would be returned to a Member that ceases to be a participant. Currently, Rule 4(A) states that SLD are not subject to Section 7 of Rule 4 (which addresses how Required Fund Deposits are returned to retired Members) and, as such, are returned to retired Members as otherwise provided for in Rule 4(A).[35] Under the proposed Rule 4(A), because NSCC would be able to calculate SLD each Business Day, it would return SLD on the Business Day following the calculation date. However, while a firm may still have unsettled activity on the day it retires, NSCC would not be able to collect SLD on the days following a Member's retirement. Therefore, NSCC is proposing to amend Rule 4(A) to require that SLD of a retired Member be treated similarly to other cash Required Fund Deposits to the Clearing Fund and be held by NSCC for 30 calendar days after any of its open transactions have settled and obligations have been satisfied. This proposed change would protect NSCC from liquidity risks presented by open transactions in the days following a firm's retirement and would align the treatment of these funds with the treatment of Required Fund Deposits of retired Members.

The proposed Rule 4(A) would also simplify the additional miscellaneous provisions applicable to SLD, which address, for example, NSCC's right to debit Members' accounts at NSCC if a Supplemental Liquidity Provider fails to meet its Supplemental Liquidity Obligation, and the information NSCC makes available to Supplemental Liquidity Providers each Business Day regarding SLD calculations. While the proposed changes would update and simplify these provisions, they would not significantly alter the structure of these provisions, as described below.

Proposed Changes to Rule 4(A)

The proposal described above would be implemented into the Rules by amending the current Rule 4(A). The specific changes to implement the proposal are described below.

Section 1 (Overview). NSCC is proposing changes to Section 1 of Rule 4(A) to simplify the descriptions by removing outdated and unnecessary language. Section 1 of Rule 4(A) would continue to provide the rationale for the SLD requirement, by describing NSCC's liquidity needs and how the SLD requirements are designed to contribute to meeting those needs. However, the proposed changes would simplify this section by removing a statement that specifically identifies two of NSCC's principal sources of liquidity and would instead more generally refer to NSCC's sources of liquidity. The proposed changes to Section 1 of Rule 4(A) would also remove references to options expiration activity periods, which would no longer be applicable to the SLD requirement under this proposal.

Section 2 (Defined Terms). NSCC is proposing several changes to Section 2 of Rule 4(A) in order to implement this proposal. As described below, the proposed changes to the defined terms address the change in timing of the SLD requirement to occur each Business Day and would improve the transparency of Rule 4(A) through simplified and clearer defined terms.

First, Section 2 of proposed Rule 4(A) would remove the definition of ''Special Activity Calculation Date,'' which is tied to the monthly Options Expiration Activity Period, and instead would use the term ''Business Day'' throughout proposed Rule 4(A), where appropriate. Business Day is currently defined in Rule 1 as any day on which NSCC is open for business. Therefore, this proposed change would provide for the calculation of SLD requirements on each day that NSCC is open for business.

Second, Section 2 of the proposed Rule 4(A) revise other defined terms that use the phrase ''Special Activity'' to either remove that phrase or, when appropriate, to replace this phrase with the term ''Supplemental.'' For example, NSCC would revise the defined term ''Special Activity Daily Liquidity Need'' to ''Daily Liquidity Need,'' and would revise the defined term ''Special Activity Liquidity Provider'' to ''Supplemental Liquidity Provider.'' The phrase ''Special Activity'' was used in the current Rule 4(A) to refer to the Options Expiration Activity Period, which would only be applicable to the monthly intraday SLD in the proposed Rule 4(A).

NSCC would also update the definition of Daily Liquidity Need to change a reference from a four-day settlement cycle to a three-day settlement cycle, to reflect the amendment to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions.[36] Additionally, NSCC would move the defined term for ''Options Expiration Activity Period'' within Section 2 of the proposed Rule 4(A) so it continues to appear alphabetically, but is not proposing to change the definition of this term.

Third, the proposed changes to Section 2 of Rule 4(A) would include one defined term for ''Qualifying Liquid Resources'' to refer to all default liquidity resources available to NSCC to settle its payment obligations as a central counterparty. As discussed in greater detail above, the defined term would provide that NSCC may apply stressed market assumptions to its Qualifying Liquid Resources when applying these resources in the calculations made under Rule 4(A). In connection with this proposed change, NSCC would remove the defined terms ''Commitment'' and ''Credit Facility,'' which were used in the current Rule 4(A) to refer to NSCC's Line of Credit, and would remove ''Other Qualifying Liquid Resources,'' which was used to refer to NSCC's liquid resources other than the Clearing Fund and the Line of Credit. This proposed change would simplify Rule 4(A) and would account for NSCC's continuing efforts to expand and diversify its default liquidity resources. The proposed change would also clarify that Qualifying Liquid Resources would not include SLD for purposes of the calculations in Rule 4(A).

Fourth, the proposed changes would move certain calculations out of the defined terms in Section 2 and include them in the relevant later sections of Rule 4(A). This proposed change would simplify and clarify Rule 4(A), which currently requires a reader to refer back to the defined terms in Section 2 when reading the calculations and requirements set forth in later sections of Rule 4(A). For example, Section 2 of Rule 4(A) currently includes the calculation of ''Special Activity Peak Liquidity Exposure'' and ''Special Activity Peak Liquidity Need.'' In the proposed Rule 4(A), NSCC would no longer use the calculation of Special Activity Peak Liquidity Exposure in determining the Supplemental Liquidity Providers or in calculating those requirements. The calculation of Peak Liquidity Need, which would replace Special Activity Peak Liquidity Need, would be moved out of Section 2 and into Section 3, where that calculation

options expiration period, which could cause an increase in NSCC's liquidity exposures.

[35] Section 7 of Rule 4 provides that Required Fund Deposits to the Clearing Fund in the form of cash and securities are returned to retired Members within 30 calendar days after all of its transactions have settled and obligations have been satisfied. *See supra* note 4.

[36] *See* 17 CFR 240.15c6–1.

would be described as being used to identify Supplemental Liquidity Providers.

Finally, the proposed changes to Section 2 of Rule 4(A) would remove defined terms that are no longer needed when NSCC calculates SLD requirements daily. For example, NSCC would remove defined terms that are related to the Options Expiration Activity Period, including ''Special Activity Business Day,'' which is currently defined as a Business Day included in an Options Expiration Activity Period. NSCC would also remove the defined term for ''Special Activity Prefund Deposit'' because it would no longer be necessary for Members to prefund their potential SLD requirement in advance of NSCC's calculations when they are done on a daily basis.

Section 3 (Supplemental Liquidity Providers). NSCC is proposing to amend Section 3 to describe how NSCC would identify the Supplemental Liquidity Providers for each Business Day. Section 3 of the proposed Rule 4(A) would state that, each Business Day, NSCC would determine the Peak Liquidity Need of each Member during the Lookback Period, and would identify the Supplemental Liquidity Providers for that Business Day as the 30 (or fewer) Members with the largest Peak Liquidity Need in that time period. These changes would implement the proposal described in greater detail above to make this calculation daily and to simplify the calculation used to identify Supplemental Liquidity Providers by using Peak Liquidity Need rather than using the largest exposures of all providers in the Lookback Period.

Section 4 (Supplemental Liquidity Obligations); Section 5 (Satisfaction of Supplemental Liquidity Obligations); and Section 6 (Notice of Supplemental Liquidity Obligations and Payment of Supplemental Liquidity Deposits). NSCC would amend Sections 4, 5 and 6 of Rule 4(A) to describe the simplified calculation of Supplemental Liquidity Obligations, and the process by which Supplemental Liquidity Providers would pay their Supplemental Liquidity Obligations after being notified by NSCC. Proposed changes to Section 4 would implement the revised calculation of Supplemental Liquidity Obligations, described in greater detail above, as the difference between a Supplemental Liquidity Provider's Daily Liquidity Need for that Business Day and the Qualifying Liquid Resources available to NSCC on that day. The proposed changes would also create a subsection b. of Section 4 to describe the optional, alternative pro rata calculation of Supplemental Liquidity Obligations, as described in greater detail above.

Proposed changes to Sections 5 and 6 of Rule 4(A) would update the defined terms and the timing by when Supplemental Liquidity Providers must fund their Supplemental Liquidity Obligations to reflect the change of these obligations to daily. Proposed changes to Section 6 of Rule 4(A) would state that the notice provided to Supplemental Liquidity Providers regarding their Supplemental Liquidity Obligations would state if that amount was calculated pursuant to Section 4b as a pro rata share of the largest Supplemental Liquidity Obligation of that Business Day.

Section 7 (Determination of Intraday Supplemental Liquidity Calls) and Section 8 (Satisfaction of Intraday Supplemental Liquidity Calls). NSCC would amend Sections 7 and 8 of Rule 4(A) to reflect the removal of the Special Activity Liquidity Calls and the adoption of the two Intraday Supplemental Liquidity Calls, as described in greater detail above. The proposed changes to these sections would also update defined terms, as appropriate.

Returns of Supplemental Liquidity Deposits—Section 9 (Deposits Made in Satisfaction of a Supplemental Liquidity Obligation) and Section 10 (Ceasing to be a Participant). NSCC is proposing to consolidate the current Sections 9 and 10 of Rule 4(A) into a new Section 9 of Rule 4(A), which would address the return of SLD that are made in satisfaction of both Supplemental Liquidity Obligations and Intraday Supplemental Liquidity Calls. The proposed changes would provide that SLD made pursuant to either Supplemental Liquidity Obligations and Intraday Supplemental Liquidity Calls would be returned to Supplemental Liquidity Providers on the next Business Day after the calculation date, unless otherwise notified by NSCC.

NSCC would amend Section 10 (currently Section 11) to align the treatment of SLD of a retired Member with the treatment of such firm's Required Fund Deposits, as described in greater detail above.

Miscellaneous Matters—Section 11 (Obligations of Affiliated Families and Supplemental Liquidity Providers), Section 12 (Application of Supplemental Liquidity Deposits) and Section 13 (Information). NSCC would amend Sections 11, 12 and 13 (currently Sections 12, 13 and 14) of Rule 4(A) to update and simplify these provisions. The proposed amendments would not substantially amend the purpose or application of these sections.

Section 11 (currently Section 12) of Rule 4(A) provides that the Supplemental Liquidity Obligations of Affiliated Families are the several obligations of all of the Members of the Affiliated Family ratably in proportion to their applicable Special Activity Peak Liquidity Exposure. NSCC would not change this provision but would update it to use revised defined terms. NSCC would also amend Section 11 by consolidating two parallel paragraphs into subsection b., which address NSCC's right to collect SLD from Supplemental Liquidity Providers. This proposed change would simplify the provision but would not make substantive changes to NSCC's rights or Members' obligations.

Section 12 (currently Section 13), which addresses how SLD are treated under Rule 4, would be amended to update defined terms and to clarify that SLD may be held by NSCC as part of Members' actual deposits to the Clearing Fund, pursuant to Section 9 of Rule 4. No substantive changes are proposed to this Section.

Section 13 (currently Section 14) describes NSCC's obligation to provide Members with certain information regarding its SLD calculation. NSCC is proposing to amend this section to include updated defined terms and to reflect the daily calculation of SLD.

(iv) Impact Study Results

NSCC has provided the Commission with the results of an impact study that reviewed the proposal against the observed regulatory liquidity needs and NSCC's Qualifying Liquid Resources available during the period from 2016 through 2020 to assess both pro-forma and hypothetical impacts of the proposal under various liquidity scenarios.

Pro-Forma Impact Study. The pro-forma impact study compared NSCC's regulatory liquidity needs against the Qualifying Liquid Resources that were available between 2016 and 2020. The pro-forma analysis indicated that NSCC would expect between 1 and 3 Supplemental Liquidity Obligations per year, ranging in size between $1.0 billion to $5.4 billion in 2016 through 2019. In calendar year 2020, the impact study shows that available Qualifying Liquid Resources for each date would have eliminated potential Supplement Liquidity Obligations.

Additionally, this impact study showed between 4 and 27 actual Supplemental Liquidity Obligations were received by NSCC per year, typically averaging $3.6 billion during

this same period, including 9 actual Supplemental Liquidity Obligations received by NSCC in 2020.

Hypothetical Impact Study. NSCC also developed several hypothetical liquidity scenarios to assess the proposal's impact. When hypothetical Qualifying Liquid Resources available to NSCC are between $17 billion and $22 billion, NSCC would expect between 7 and 36 Supplemental Liquidity Obligations per year, ranging in size between $2.1 billion to $4.6 billion each; and (2) when the hypothetical Qualifying Liquid Resources available to NSCC are $22 billion or above, NSCC would expect between 1 and 5 Supplemental Liquidity Obligations per year, ranging in size between $2.1 billion to $6.8 billion each.

NSCC has also provided the Commission with details of potential impacts of the proposal on the largest 50 Affiliated Families, a list of the 30 Affiliated Families with the largest liquidity exposures as of December 31, 2020, and the respective Affiliated Families' maximum and average NSCC liquidity needs for each calendar year between 2016 and 2020.

(v) Implementation Timeframe

NSCC would implement the proposed changes no later than 10 Business Days after the later of the no objection to the advance notice and approval of the related proposed rule change [37] by the Commission. NSCC would announce the effective date of the proposed changes by Important Notice posted to its website.

Anticipated Effect on and Management of Risk

NSCC believes that the proposed changes to calculate and collect, when applicable, SLD on both a daily basis and, in some cases, on an intraday basis, and the proposed changes to implement an alternative pro rata calculation of Members' SLD obligations in certain circumstances, as described above, would enable NSCC to better limit its liquidity exposures to Members' daily settlement activity.

The proposed changes to calculate and collect, when applicable, SLD on a daily basis would improve NSCC's ability to estimate its liquidity exposures in the calculation and collection of SLD by using daily activity, rather than estimating potential exposures based on activity in a look-back period. In this way, the proposed change would improve NSCC's liquidity risk management by supplementing its liquidity resources that are available to it to complete end-of-day settlement in the event of the default of a Member. The proposed intraday SLD would allow NSCC to re-calculate its liquidity exposures and collect sufficient liquidity to allow it to complete end-of-day settlement in the event of the default of a Member. The proposed pro rata alternative calculation of SLD would allow NSCC to opt to collect only the largest Supplemental Liquidity Obligation calculated for that Business Day, while still meeting NSCC's applicable regulatory obligations.

By providing NSCC with a more effective measurement of its liquidity exposures, the proposed changes would also mitigate risk for Members because lowering the risk profile for NSCC would in turn lower the risk exposure that Members may have with respect to NSCC in its role as a central counterparty.

Consistency With the Clearing Supervision Act

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[38]

NSCC believes that the proposal is consistent with the Clearing Supervision Act, specifically with the risk management objectives and principles of Section 805(b), and with certain of the risk management standards adopted by the Commission pursuant to Section 805(a)(2), for the reasons described below.[39]

(i) Consistency With Section 805(b) of the Clearing Supervision Act

NSCC believes the proposal is consistent with the objectives and principles of the risk management standards described in Section 805(b) of the Clearing Supervision Act.[40] The proposal would allow NSCC to calculate and collect, when applicable, SLD on a daily basis and would implement an alternative pro rata calculation of Members' SLD obligations in certain circumstances, as described above. By using daily activity in these calculations, the proposed change would improve NSCC's ability to estimate its liquidity exposures in the calculation and collection of SLD and, therefore, would improve NSCC's management of the liquidity risks posed to it by its Members' daily settlement activity. Additionally, the proposal would establish a monthly intraday SLD collection in connection with options expiration activity that present heighted liquidity exposures, and an optional intraday SLD that NSCC may collect when it deems appropriate to mitigate any increased liquidity exposures or in light of other circumstances. These proposed intraday SLD would allow NSCC to re-calculate its liquidity exposures and collect sufficient liquidity to allow it to complete end-of-day settlement in the event of the default of a Member. Further, the proposed pro rata alternative calculation of SLD would allow NSCC to opt to collect only the largest Supplemental Liquidity Obligation calculated for that Business Day, while still meeting NSCC's applicable regulatory obligations.

The proposal would strengthen NSCC's ability to maintain sufficient liquidity to complete end-of-day settlement in the event of the default of a Member by allowing NSCC to collect SLD each Business Day from those Members that pose the largest liquidity exposures to NSCC on that day. Therefore, because the proposed changes are designed to enable NSCC to better limit the liquidity exposures it would face in the event of a Member default, NSCC believes the proposal promotes robust risk management.

As a result, NSCC believes the proposal is consistent with the objectives and principles of Section 805(b) of the Clearing Supervision Act,[41] which specifies the promotion of robust risk management, promotion of safety and soundness, reduction of systemic risks, and support of the stability of the broader financial system by, among other things, strengthening the liquidity of systemically important financial market utilities, such as NSCC.

(ii) Consistency With Rules 17Ad–22(e)(7)(i) and (ii) Under the Act

NSCC believes the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes the proposed changes are consistent with Rules 17Ad–22(e)(7)(i) and (ii), each promulgated under the Act,[42] for the reasons described below.

Rule 17Ad–22(e)(7)(i) under the Act requires that NSCC establish,

[37] *Supra* note 3.

[38] 12 U.S.C. 5461(b).

[39] 12 U.S.C. 5464(a)(2) and (b).

[40] 12 U.S.C. 5464(b).

[41] *Id.*

[42] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for NSCC in extreme but plausible market conditions.[43] Rule 17Ad–22(e)(7)(ii) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i) in each relevant currency for which NSCC has payment obligations owed to its Members.[44]

As described above, the proposal would strengthen NSCC's ability to maintain sufficient liquidity to complete end-of-day settlement in the event of the default of a Member. The proposal would do this by allowing NSCC to calculate and collect, when applicable, SLD every Business Day from those Members that pose the largest liquidity exposures to NSCC on that day. The proposal would also include a mechanism to allow NSCC to collect SLD on an intraday basis, including on the first Business Day of the Options Expiration Activity Period, when liquidity exposures are historically higher. These resources would be available to NSCC to complete end-of-day settlement in the event of the default of a Member. Further, SLD are currently, and would continue to be, held by NSCC at either its cash deposit account at the Federal Reserve Bank of New York, at a creditworthy commercial bank, or in other investments pursuant to the Clearing Agency Investment Policy.[45] Therefore, SLD would continue to be considered a qualifying liquid resource, as defined by Rule 17Ad–22(a)(14) under the Act,[46] and would support NSCC's ability to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i), as required by Rule 17Ad–22(e)(7)(ii). Additionally, the proposed alternative pro-rata calculation of Supplemental Liquidity Obligations would provide NSCC with flexibility to determine how the total amount collected on a Business Day, while continuing to collect and hold sufficient liquidity to allow it to complete end-of-day settlement in the event of the default of the Member with the largest payment obligations, as required by Rule 17Ad-22(e)(7)(i).[47] As such, this proposed change would support NSCC's ability to hold sufficient qualifying liquid resources to meet its minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i) and (ii).[48]

III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its website of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NSCC–2021–801 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2021–801. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2021–801 and should be submitted on or before April 8, 2021.

[43] 17 CFR 240.17Ad–22(e)(7)(i).

[44] 17 CFR 240.17Ad–22(e)(7)(ii). For purposes of Rule 17Ad–22(e)(7)(ii), ''qualifying liquid resources'' are defined in Rule 17Ad–22(a)(14) as including, in part, cash held either at the central bank of issue or at creditworthy commercial banks. *Supra* note 7.

[45] *See* Securities Exchange Act Release Nos. 79528 (December 12, 2016), 81 FR 91232 (December 16, 2016) (File Nos. SR–DTC–2016–007, SR–FICC–2016–005, SR–NSCC–2016–003); 84949 (December 21, 2018), 83 FR 67779 (December 31, 2018) (File Nos. SR–DTC–2018–012, SR–FICC–2018–014, SR–NSCC–2018–013).

[46] 17 CFR 240.17Ad–22(a)(14).

[47] 17 CFR 240.17Ad–22(e)(7)(i).

[48] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

By the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Eduardo A. Aleman,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91356; File No. SR–EMERALD–2021–09]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing of a Proposed Rule Change To Adopt Exchange Rule 531, Reports, To Provide for the New ''Liquidity Taker Event Report''

March 18, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 5, 2021, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Exchange Rule 531(a) to provide for the new ''Liquidity Taker Event Report''.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald* at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Exchange Rule 531(a) to provide for the new ''Liquidity Taker Event Report'' (the ''Report''). The Report is an optional product [3] available to Members.[4] Currently, the Exchange provides real-time prices and analytics in the marketplace. The Exchange believes the additional data points from the matching engine outlined below may help Members gain a better understanding about their interactions with the Exchange. The Exchange believes the Report will provide Members with an opportunity to learn more about better opportunities to access liquidity and receive better execution rates. The proposed Report will increase transparency and democratize information so that all firms that subscribe to the Report have access to the same information on an equal basis, even for firms that do not have the appropriate resources to generate a similar report regarding interactions with the Exchange. None of the components of the proposed Report include real-time market data.

Members generally would use a liquidity accessing order if there is a high probability that it will execute against an order resting on the Exchange's Book.[5] The proposed Report would identify by how much time an order that may have been marketable missed an execution. The proposed Report will provide greater visibility into the missed trading execution, which will allow Members to optimize their models and trading patterns to yield better execution results.

The proposed Report will be a Member-specific report and will help Members to better understand by how much time a particular order missed executing against a specific resting order, thus allowing that Member to determine whether it wants to invest in the necessary resources and technology to mitigate missed executions against certain resting orders on the Exchange's Book. For example, Member A submits an order that is posted to the Book and then Member B enters a marketable order to execute against Member A's resting order. Immediately thereafter, Member C sends a marketable order to execute against Member A's resting Order. Because Member B's order is received by the Exchange before Member C's order, Member B's order executes against Member A's resting order. The proposed Report would provide Member C the data points necessary for that firm to calculate by how much time they missed executing against Member A's resting order. The Exchange proposes to provide the Report on a T+1 basis. As further described below, the Report will be specific and tailored to the Member that is subscribed to the Report and any data included in the Report that relates to a Member other than the Member receiving the Report will be anonymized.

The Exchange proposes to provide the Report in response to Member demand for data concerning the timeliness of their incoming orders and executions against resting orders. Members have periodically requested from the Exchange's trading operations personnel information concerning the timeliness of their incoming orders and efficacy of their attempts to execute against resting liquidity on the Exchange's Book. The purpose of the Report is to provide Members the necessary data in a standardized format on a T+1 basis to those that subscribe to the Report on an equal basis.[6]

Proposed Exchange Rule 531(a) would provide that the Report is a daily report that provides a Member (''Recipient Member'') with its liquidity response

[49] 17 CFR 200.30–3(a)(91).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange intends to submit a separate filing with the Commission pursuant to Section 19(b)(1) to propose fees for the Liquidity Taker Event Report.

[4] 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.

[5] The term ''Book'' means the electronic book of buy and sell orders and quotes maintained by the System. *See* Exchange Rule 100. The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See id.*

[6] The proposed Report is based on a similar report provided by the NASDAQ Stock Market LLC (''NASDAQ'') for equity securities called the Missed Opportunity—Latency report as part of its NASDAQ Trader Insights offering. *See* NASDAQ Equity Section 7, Rule 146(a)(2). *See also* Securities Exchange Act Release No. 78886 (September 20, 2016), 81 FR 66113 (September 26, 2016) (SR–NASDAQ–2016–101) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Add NASDAQ Rule 7046 (Nasdaq Trading Insights)) (''NASDAQ Approval Order''). NASDAQ later renumbered Rule 7046 as Equity Section 7, Rule 146. *See* Securities Exchange Act Release No. 84684 (November 29, 2018), 83 FR 62936 (December 6, 2018) (SR–NASDAQ–2018–098). *See also* the CME Group, Inc.'s Time and Sale report. *https://www.cmegroup.com/trading/about-time-sales.html#:~:text=CME%20Globex%20Options)-, CME%20Group's%20Time%20% 26%20Sales%20report%20provides%20the% 20price%20and%20time,calendar%20date)%20of%20the%20transaction.&text=A%20zero%20volume%20represents%20an%20indicative%20price.,-The%20Indicator%20column.*

time details for executions of an order resting on the Book, where that Recipient Member attempted to execute against such resting order within a certain timeframe.

Report Content

Paragraph (a)(1) of Rule 531 would describe the content of the Report and delineate which information would be provided regarding the resting order,[7] the response that successfully executed against the resting order, and the response submitted by the Recipient Member that missed executing against the resting order. It is important to note that the content of the Report will be specific to the Recipient Member and the Report will not include any information related to any Member other than the Recipient Member. The Exchange will restrict all other market participants, including the Recipient Member, from receiving another market participant's data.

Resting Order Information. Rule 531(a)(1)(i) would provide that the following information would be included in the Report regarding the resting order: (A) the time the resting order was received by the Exchange; [8] (B) symbol; [9] (C) order reference number, which is a unique reference number assigned to a new order at the time of receipt; [10] (D) whether the Recipient Member is an Affiliate [11] of the Member that entered the resting order; [12] (E) origin type (*e.g.,* Priority Customer,[13] Market Maker [14]); (F) side (buy or sell); [15] and (G) displayed price and size of the resting order.[16]

Execution Information. Rule 531(a)(1)(ii) would provide that the following information would be included in the Report regarding the execution of the resting order: (A) the EBBO [17] at the time of execution; [18] (B) the ABBO [19] at the time of execution; [20] (C) the time first response that executes against the resting order was received by the Exchange and the size of the execution and type of the response; [21] (D) the time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the Exchange; [22] and (E) whether the response was entered by the Recipient Member. If the resting order executes against multiple contra-side responses, only the EBBO and ABBO at the time of the execution against the first response will be included.

Recipient Member's Response Information. Rule 531(a)(1)(iii) would provide that the following information would be included in the Report regarding response(s) sent by the Recipient Member: (A) Recipient Member identifier; (B) the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member, regardless of whether it executed or not; [23] (C) size and type of each response submitted by Recipient Member; and (D) response reference number, which is a unique reference number attached to the response by the Recipient Member.

Timeframe for Data Included in Report

Paragraph (a)(2) of Rule 531 would provide that the Report would include the data set forth under Rule 531(a)(1) described above for executions and contra-side responses that occurred within 200 microseconds of the time the resting order was received by the Exchange.

Scope of Data Included in the Report

Paragraph (a)(3) of Rule 531 would provide that the Report will only include trading data related to the Recipient Member and, subject to the proposed paragraph (4) of Rule 531(a) described below, will not include any other Member's trading data other than that listed in paragraphs (1)(i) and (ii) of Exchange Rule 531(a) described above.[24]

Historical Data

Paragraph (a)(4) of Rule 531 would specify that the Report will contain historical data from the prior trading day and will be available after the end of the trading day, generally on a T+1 basis.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[25] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [26] requirements that the rules of an exchange be designed to prevent

[7] Only displayed orders will be included in the Report. The Exchange notes that it does not currently offer any non-displayed orders types on its options trading platform.

[8] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6. The time the Exchange received the resting order would be in nanoseconds and is the time the resting order was received by the Exchange's System.

[9] This information is also included in the NASDAQ report. *See id.*

[10] This information is also included in the NASDAQ report. *See id.*

[11] The term ''affiliate'' of or person ''affiliated with'' another person means a person who, directly, or indirectly, controls, is controlled by, or is under common control with, such other person. *See* Exchange Rule 100.

[12] The Report will simply indicate whether the Recipient Member is Affiliate of the Member that entered the resting order and not include any other information that may indicate the identity of the Member that entered the resting order.

[13] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 to Exchange Rule 100. *See* Exchange Rule 100.

[14] The term ''Market Maker'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

[15] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6.

[16] This information is also included in the NASDAQ Report. *See id.* The Exchange notes that the displayed price and size are also disseminated via the Exchange's proprietary data feeds and the Options Price Reporting Authority (''OPRA''). The Exchange also notes that the displayed price of the resting order may be different than the ultimate execution price. This may occur when a resting order is displayed and ranked at different prices upon entry to avoid a locked or crossed market.

[17] The term ''EBBO'' means the best bid or offer on the Exchange. *See* Exchange Rule 100.

[18] Exchange Rule 531(a)(1)(ii)(B) would further provide that if the resting order executes against multiple contra-side responses, only the EBBO [sic] at the time of the execution against the first response will be included.

[19] The term ''ABBO'' or ''Away Best Bid or Offer'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (defined in Exchange Rule 1400(g)) and calculated by the Exchange based on market information received by the Exchange from OPRA. *See* Exchange Rule 100.

[20] Exchange Rule 531(a)(1)(ii)(A) would further provide that if the resting order executes against multiple contra-side responses, only the ABBO [sic] at the time of the execution against the first response will be included.

[21] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6. The time the Exchange received the response order would be in nanoseconds and would be the time the response was received by the Exchange's network, which is before the time the response would be received by the System.

[22] The time difference would be provided in nanoseconds. This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6.

[23] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6. For purposes of calculating this duration of time, the Exchange will use the time the resting order and the Recipient Member's response(s) is received by the Exchange's network, both of which would be before the order and response(s) would be received by the System. This time difference would be provided in nanoseconds.

[24] The scope of information included in the Report is similar to the NASDAQ report in that both NASDAQ's report and the proposed Report do not include information related to the any Member other than the Recipient Member. *See* Nasdaq Approval Order at note 13, *supra* note 6.

[25] 15 U.S.C. 78f(b).

[26] 15 U.S.C. 78f(b)(5).

fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. This proposal is in keeping with those principles in that it promotes increased transparency through the dissemination of the optional Report to those interested in subscribing to receive the data. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [27] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed Report will serve to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest because it will benefit investors by facilitating their prompt access to the value added information that is included in the proposed Report. The Report will allow Members to access information regarding their trading activity that they may utilize to evaluate their own trading behavior and order interactions.

The proposed Report is designed for Members that are interested in gaining insight into latency in connection with orders that failed to execute against an order resting on the Exchange's Book by providing those Members data to analyze by how much time their order may have missed an execution against a contra-side order resting on the Book. The Exchange believes that providing this optional latency data to interested Members is consistent with facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest because it provides greater visibility into the latency of Members' incoming orders. Members may use this data to optimize their models and trading patterns in an effort to yield better execution results by calculating by how much time their order may have missed an execution.

The Report generally contains three buckets of information. The first two buckets include information about the resting order and the execution of the resting order. This information is generally available from other public sources, such as OPRA and the Exchange's proprietary data feeds, or is similar to information included in a report offered by another exchange. For example, OPRA provides bids, offers, and consolidated last sale and quotation information for options trading on all national securities exchanges, including the Exchange. In addition, the Exchange offers the Top of Market (''ToM'') feed which provides real-time quote and last sale information for all displayed orders on the Book.[28]

Specifically, the first bucket of information contained in the Report for the resting order includes the time the resting order was received by the Exchange, the symbol, unique reference number assigned at the time of receipt, side (buy or sell), and the displayed price and size of the resting order. Each of these data points are also included in the report of another exchange that was previously approved by the Commission.[29] Further, the symbol, origin type, side (buy or sell), and displayed price and size are also available either via OPRA or the Exchange's proprietary data feeds. The first bucket of information also indicates whether the Recipient Member is an Affiliate of the Member that entered the resting order. This data field will not indicate the identity of the Member that entered the resting order and would simply allow the Recipient Member to better understand the scenarios in which it may execute against the orders of its Affiliates.[30]

The second bucket of information contained in the Report regards the execution of the resting order and includes the EBBO and ABBO at the time of execution. These data points are also available either via OPRA or the Exchange's proprietary data feeds. The second bucket of information will also indicate whether the response was entered by the Recipient Member. This data point is simply provided as a convenience. If not entered by the Recipient Member, this data point will be left blank so as not to include any identifying information about other Member activity. The second bucket of information also includes the size, time and type of first response that executes against the resting order; as well as the time difference between the time the resting order and first response that executes against the resting order are received by the Exchange. These data points would assist the Recipient Member in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Book. These data points are also included in the report of another exchange that was previously approved by the Commission.[31]

The third bucket of information is about the Recipient Member's response(s) and the time their response(s) is received by the Exchange. This includes the time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member, regardless of whether it executed or not. As above, this data point would assist the Recipient Member in analyzing by how much time their order may have missed an execution against a contra-side order resting on the Book. This data point is also included in the report of another exchange that was previously approved by the Commission.[32] This bucket would also include the size and type of each response submitted by the Recipient Member, the Recipient Member identifier, and a response reference number which is selected by the Recipient Member. Each of these data point are unique to the Recipient Member and should already be known by Recipient Member even if not included in the Report.

As mentioned above, at least one other exchange currently offers a similar trading related report that has been reviewed and approved by the Commission. Specifically, NASDAQ provides the Missed Opportunity—Latency report as part of its NASDAQ Trader Insights offering.[33] NASDAQ's Missed Opportunity—Latency report, like the proposed Report, identifies by how much time a marketable order missed executing against a resting order, similar to the third bucket of information provided in the Report and described above. Both the proposed Report and NASDAQ's Missed Opportunity—Latency report are both

[27] *Id.*

[28] *See* Securities Exchange Release 79913 (February 1, 2017), 82 FR 9617 (February 7, 2017) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish the MIAX PEARL Top of Market (''ToM'') and MIAX PEARL Liquidity Feed (''PLF'') Data Products).

[29] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6.

[30] The Exchange's surveils to monitor for abhorrent behavior related to internalized trades and identify potential wash sales.

[31] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6.

[32] This information is also included in the NASDAQ report. *See* Nasdaq Approval Order at note 12, *supra* note 6.

[33] *See* NASDAQ Approval Order *supra* note 6.

provided on a T+1 basis and include data specific to one Member, and only that Member would receive the report.[34] In addition, both the proposed Report and NASDAQ's Missed Opportunity—Latency report are intended to provide the Recipient Member with the time duration by which the order entered by the Recipient Member missed an execution. Both the Exchange and NASDAQ restrict all other market participants, including the Recipient Member, from receiving another market participant's data. As described above throughout the proposal, the proposed Report and NASDAQ's Missed Opportunity—Latency report both include the following information:

- The time a resting order was received by the Exchange
- Symbol
- Order reference number (unique reference number assigned to a new order at the time of receipt)
- Side (buy or sell)
- Displayed price and size of the resting order
- Time first response that executes against the resting order was received by the Exchange and the size of the execution and type of the response
- Time difference between the time the resting order was received by the Exchange and the time the first response that executes against the resting order was received by the Exchange
- Time difference between the time the first response that executes against the resting order was received by the Exchange and the time of each response sent by the Recipient Member, regardless of whether it executed or not

The proposed Report includes that following information that is not included in NASDAQ's Missed Opportunity—Latency report:

- Whether the Recipient Member is an Affiliate of the Member that entered the resting order.
- Origin type (*e.g.,* Priority Customer, Market Maker). This difference is immaterial as this data point is being provided as a convenience and this data point is also available either via OPRA or the Exchange's proprietary data feeds.
- EBBO at the time of the execution. This difference is immaterial as this data point is being provided as a convenience and this data point is also available either via OPRA or the Exchange's proprietary data feeds.
- ABBO at the time of the execution. This difference is immaterial as this data point is being provided as a convenience and this data point is also available either via OPRA or the Exchange's proprietary data feeds.
- Whether response was entered by the Recipient Member. As stated above, this data point is simply provided as a convenience to the Recipient Member. If not entered by the Recipient Member, this data point will be left blank so as not to include any identifying information about other Member activity.
- Recipient Member identifier. This difference is not material because this data point is being provided as a convenience would [sic] be known to the Recipient Member even if not included in the Report.
- Size and type of each response submitted by the Recipient Member. This difference is not material because this data point is being provided as a convenience would [sic] be known to the Recipient Member even if not included in the Report.
- Response reference number. The Exchange believe [sic] this is not a material difference since it this [sic] is a unique reference number not assigned by the Exchange, but rather attached to response [sic] by the Recipient Member themselves and would be known to the Recipient Member even if not included in the Report.

As illustrated above, the proposed Report and NASDAQ's Missed Opportunity—Latency Report is substantially similar and includes a number of the same data elements designed to assist Members in better understanding their trading activity on the Exchange and augment their trading strategies to improve their execution opportunities. Each of these above differences are immaterial because the data point is available via another source and is being provided as a convenience to the Recipient Member when analyzing the Report and intended to make the Report more comprehensive and easier to understand.

One additional difference between the proposed Report and NASDAQ's Missed Opportunity—Latency report is unrelated to the content of the Report, but is related to the type of security the report covers. The proposed Report would cover options trading on the Exchange while NASDAQ's Missed Opportunity—Latency report covers equity securities. The Exchange believes this difference is of no consequence as both reports are intended to serve the same purpose—providing firms with an opportunity to learn more about when they may have better opportunities to access liquidity and to receive better execution rates. The infrastructure by which a market participant seek to access displayed liquidity on either an equity or options exchange is similar. Liquidity seeking orders on both equity and options exchanges would access the exchanges' systems in similar manners through the use of ports and gateways. Both reports provide data regarding attempts to access liquidity and both reports would be of no value to market participants seeking to access liquidity in dark pools or other off-exchange venues that are present in the equities market that do not provide for displayed orders. Such off exchange venues are not present in the options markets. The value of such a report is only present in the displayed markets for both options and equities trading and, therefore, the Exchange believes the proposed Report presents the same utility and benefits in the options market as the NASDAQ report does today for equities.

In approving NASDAQ's Missed Opportunity—Latency report, the Commission noted that the report ''would increase transparency, particularly for Members who may not have the expertise to generate the same information.'' [35] For the reasons stated above, the Exchange believes this statement is true regardless of whether the Recipient Member trades equities or options. The Exchange's proposed Report would achieve the same goal for Members seeking to better understand the efficacy of their incoming orders. Further, the proposed Report promotes just and equitable principles of trade because, like NASDAQ's report, it will increase transparency and democratize information so that all firms may elect to subscribe to the Report even though some firms may not have the appropriate resources to generate a similar report themselves.

The Exchange proposes to provide the Report on a voluntary basis and no Member will be required to subscribe to the Report. The Exchange notes that there is no rule or regulation that requires the Exchange to produce, or that a Member elect to receive, the Report. It is entirely a business decision of each Member to subscribe to the Report. The Exchange proposes to offer the Report as a convenience to Members to provide them with additional information regarding trading activity on the Exchange on a delayed basis after the close of regular trading hours. A Member that chooses to subscribe to the Report may discontinue receiving the

[34] *Id.*

[35] *See* Securities Exchange Act Release No. 78886 (September 20, 2016), 81 FR 66113, 66114 (September 26, 2016).

Report at any time if that Member determines that the information contained in the Report is no longer useful.

In summary, the proposed Report will help to protect a free and open market by providing additional data (offered on an optional basis) to the marketplace and by providing investors with greater choices.[36] Additionally, the proposal would not permit unfair discrimination because the proposed Report will be available to all Exchange Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposed Report will enhance competition[37] by providing a new option for receiving market data to Members. The proposed Report will also further enhance competition between exchanges by allowing the Exchange to expand its product offerings to include a report similar to that currently offered by NASDAQ.[38]

In this instance, the proposed rule change to offer the optional Report is in response to Member interest and requests for such information. The Exchange does not believe the proposed Report will have an inappropriate burden on intra-market competition between Recipient Members and other Members who do not receive the Report. As discussed above, the first two buckets of information included in the Report contain information about the resting order and the execution of the resting order, both of which are generally available to Members that chose not to receive the Report from other public sources, such as OPRA and the Exchange's proprietary data feeds. The third bucket of information is about the Recipient Member's response and the time their response is received by the Exchange, information which the Recipient Member would be able to obtain without receiving the Report. Additionally, some Members may already be able to derive a substantial amount of the same data that is provided by some of the components based on their own executions and algorithms.

In sum, if the proposed Report is unattractive to Members, Members will opt not to receive it. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date 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 shall: (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–EMERALD–2021–09 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–EMERALD–2021–09. 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–EMERALD–2021–09, and should be submitted on or before April 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–05998 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

[36] *See* Sec. Indus. Fin. Mkts. Ass'n (SIFMA), Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 (ALJ June 1, 2016) (finding the existence of vigorous competition with respect to non-core market data).

[37] *Id.*

[38] *See* NASDAQ Equity Section 7, Rule 146(a)(2).

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91363; File No. SR–NYSENAT–2021–01]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Co-Location Services and Fee Schedule To Add Two Partial Cabinet Solution Bundles

March 18, 2021.

On January 19, 2021, NYSE National, Inc. (''NYSE National'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's co-location rules to add two partial cabinet solution bundles. The proposed rule change was published for comment in the **Federal Register** on February 5,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

2021.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 22, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 6, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSENAT–2021–01).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06011 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91360; File No. SR–NYSEArca–2021–07]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Co-Location Services and Fee Schedule To Add Two Partial Cabinet Solution Bundles

March 18, 2021.

On January 19, 2021, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's co-location rules to add two partial cabinet solution bundles. The proposed rule change was published for comment in the **Federal Register** on February 8, 2021.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 25, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 9, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2021–07).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06001 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91354; File No. SR–NYSEArca–2021–09]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Amend Rule 6.86–O To Eliminate the Use of Dark Series on the Exchange

March 18, 2021.

On January 26, 2021, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to eliminate the exclusion of inactive or ''dark'' series from the requirements of Rule 6.86–O (Firm Quotes) and to delete Commentary .03 to Rule 6.86–O in its entirety. The proposed rule change was published for comment in the **Federal Register** on February 5, 2021.[3] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 22, 2021.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates May 6, 2021 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed

[3] *See* Securities Exchange Act Release No. 91037 (February 1, 2021), 86 FR 8424 (SR–NYSENAT–2021–01).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91044 (February 2, 2021), 86 FR 8662 (SR–NYSEArca–2021–07).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91038 (February 1, 2021), 86 FR 8416.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

rule change (File No. SR–NYSEArca–2021–09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–05996 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91362; File No. SR–NYSECHX–2021–01]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Co-Location Services and Fee Schedule To Add Two Partial Cabinet Solution Bundles

March 18, 2021.

On January 19, 2021, NYSE Chicago, Inc. (''NYSE Chicago'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's co-location rules to add two partial cabinet solution bundles. The proposed rule change was published for comment in the **Federal Register** on February 5, 2021.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is March 22, 2021. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 6, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSECHX–2021–01).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–06019 Filed 3–23–21; 8:45 am]

BILLING CODE 8011–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2021–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board approves the second quarter 2021 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2021 RCAF (Unadjusted) is 1.059. The second quarter 2021 RCAF (Adjusted) is 0.441. The second quarter 2021 RCAF–5 is 0.417.

DATES: *Applicability Date:* April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available at *www.stb.gov.*

Decided: March 18, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2021–06042 Filed 3–23–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36306 (Sub-No. 1); Docket No. FD 36451]

RFM Holdco LLC—Control Exemption—Pioneer Railcorp, et al.; The Baupost Group, L.L.C. and US Infravest Managers LP—Control Exemption—Pioneer Railcorp, et al.

The Board has received two verified notices of exemption seeking authority to acquire control of Pioneer Railcorp (Pioneer), a noncarrier holding company, and the 15 Class III railroads controlled by Pioneer (the Pioneer Railroads).[1] In Docket No. FD 36306 (Sub-No. 1), RFM HoldCo LLC (RFM) seeks an after-the-fact exemption for its unauthorized 2019 acquisition of control of Pioneer and the Pioneer Railroads. (RFM Verified Notice 1, FD 36306 (Sub-No. 1) et al.) In Docket No. FD 36451, The Baupost Group, L.L.C. (Baupost), and US Infravest Managers LP (Infravest Managers) seek authority to acquire indirect control of Pioneer and the Pioneer Railroads from a subsidiary of RFM, Related Infrastructure Holdings LLC (Related Infrastructure Holdings). (Baupost Verified Notice 1 & Ex. 3, FD 36451.) Both notices were held in abeyance pending further order of the Board. *See Baupost Grp., L.L.C.—Control Exemption—Pioneer Railcorp,* FD 36451 et al. (STB served Nov. 25, 2020); *RFM HoldCo LLC—Control Exemption—Pioneer Railcorp,* FD 36306 (Sub-No. 1) et al. (STB served Dec. 28, 2020).

The Board finds that these transactions are not appropriate for the expedited class exemption process. However, after reviewing the supplemental information submitted in this docket, the Board will grant, on its own motion, the appropriate exemptions to authorize the transactions.

Background

In June 2019, Brookhaven Rail Partners, LLC (Brookhaven), Related Infrastructure, LLC (Related Infrastructure), BRX Transportation Holdings, LLC (BRX Transportation), and BRX Acquisition Sub, Inc. (BRX Acquisition), obtained an exemption to

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91036 (February 1, 2021), 86 FR 8440 (SR–NYSECHX–2021–01).

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

[1] They are: Alabama & Florida Railway Co., Inc.; Alabama Railroad Co., Inc.; Decatur Junction Railway Co.; Elkhart & Western Railroad Co.; Fort Smith Railroad Co.; The Garden City Western Railway, Inc.; Georgia Southern Railway Co.; Gettysburg & Northern Railroad Co.; Indiana Southwestern Railway Co.; Kendallville Terminal Railway Co.; Keokuk Junction Railway Co.; Michigan Southern Railroad Company; Mississippi Central Railroad Co.; Pioneer Industrial Railway Co.; and Vandalia Railroad Company. (*See* Baupost Verified Notice 1–3, FD 36451.)

acquire control of Pioneer and the Pioneer Railroads. *See Brookhaven Rail Partners, LLC—Control Exemption—Pioneer Railcorp,* FD 36306, slip op. at 1 (STB served June 21, 2019) (84 FR 29,276).

On October 22, 2020, in Docket No. FD 36451, Baupost and Infravest Managers filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire indirect control of Pioneer and the Pioneer Railroads by acquiring a majority equity interest in BRX Transportation. (*See* Baupost Verified Notice 1–4, FD 36451.) Baupost and Infravest Managers identified the current owner of the majority equity interest in BRX Transportation as ''an affiliate of Related Infrastructure.'' (*Id.* at 3–4.) In a supplement filed on November 2, 2020, Baupost and Infravest Managers [2] stated that, following the 2019 filing of the verified notice of exemption in Docket No. FD 36306 but before the filing of the verified notice in Docket No. FD 36451, two additional transactions had taken place. First, Related Infrastructure Acquisitions LLC (Related Acquisitions) transferred its interest in BRX Transportation to Related Infrastructure BRX Holdings LLC (Related BRX Holdings).[3] (Baupost Suppl. 2, Nov. 2, 2020, FD 36451.) Second, Related Infrastructure transferred its interest in Related BRX Holdings to Related Infrastructure Holdings LLC (Related Infrastructure Holdings), which now ''directly owns and controls Related BRX Holdings.'' (*Id.*) The supplement further stated that Related Infrastructure and Related Infrastructure Holdings are subsidiaries of Related Fund Management, (*id.*), and the verified notice in Docket No. FD 36306 identified Related Fund Management as a subsidiary of Related Companies, L.P. (Related Companies), (Brookhaven Verified Notice 2 n.2, June 7, 2019, *Brookhaven Rail Partners, LLC—Control Exemption—Pioneer Railcorp, et al.,* FD 36306).

In a decision served November 25, 2020, the Board postponed the effective date of the exemption sought by Baupost and Infravest Managers in Docket No. FD 36451, held that proceeding in abeyance, and directed Related Infrastructure Holdings, Related Fund Management, and Related Companies (and any other entity or individual that controls Related Companies, as appropriate) to explain why Board authority was not required for the two transactions that occurred in 2019, or, if they believe such authority was needed, to seek after-the-fact authority under 49 U.S.C. 11323 to control Pioneer and the Pioneer Railroads. *See Baupost Grp., L.L.C.—Control Exemption—Pioneer Railcorp,* FD 36451 et al., slip op. at 3 (STB served Nov. 25, 2020).

On December 2, 2020, RFM filed its verified notice of exemption, identifying itself as ''the highest person currently in the corporate chain of control,'' (RFM Verified Notice 2, FD 36306 (Sub-No. 1) et al.), and elaborating on the transactions described in Baupost and Infravest Managers' November 2, 2020 supplement. As stated by RFM, when the notice of exemption in Docket No. FD 36306 was filed on June 7, 2019, ''Related Companies controlled Related Fund Management, which controlled Related Infrastructure, which controlled Related Acquisitions, which controlled BRX Transportation.'' (*Id.*) Therefore, according to RFM, ''Related Companies, as the ultimate controlling party, should have sought control authority . . . in FD 36306.'' (*Id.* at 3.)

RFM stated, however, that it is the proper party to file the verified notice of exemption because of the second transaction that occurred in 2019—the transfer of the ownership interest in Related BRX Holdings from Related Infrastructure to Related Infrastructure Holdings—which RFM claims was part of a ''broader intracompany reorganization.'' (*Id.* at 3–4.) RFM states that, in the reorganization, Related Companies formed RFM; RFM formed a subsidiary, Related Infrastructure Holdings Investor LLC (Related Infrastructure Investor); Related Infrastructure Investor formed a subsidiary, Related Infrastructure Holdings; and Related Infrastructure's interest in Related BRX Holdings was transferred to Related Infrastructure Holdings. (*Id.* at 4.) As a result, RFM replaced Related Companies as ''the ultimate controlling party.'' (*Id.* at 3–4.) According to RFM, it is ''owned by equity holders of Related Companies,'' and Related Companies and Related Fund Management no longer have any ownership interest in entities controlling BRX Transportation, Pioneer, or RFM. (*Id.* (footnote omitted).) RFM also noted that none of its equity owners have control of Related Companies or RFM. (*Id.* at 4 n.4.)

On December 3, 2020, Baupost and Infravest Managers filed a letter, which included the agreement through which Baupost and Infravest Managers are acquiring Pioneer and the Pioneer Railroads, stating that the parties ''expect to consummate the transaction shortly after the Board allows the exemption in this proceeding to take effect.'' (Baupost Letter 1, Dec. 3, 2020, FD 36451.) Baupost and Infravest Managers also requested that the Board remove Docket No. FD 36451 from abeyance and allow the exemption to take effect promptly or, at the latest, no later than the day that the Board ''resolves the issues regarding current control of Pioneer.'' (*Id.*)

In a decision served December 28, 2020, the Board held RFM's notice of exemption in abeyance and directed RFM to provide additional information. *See RFM HoldCo LLC,* FD 36306 (Sub-No. 1) et al., slip op. at 5. The Board found that, although RFM implied that it acquired control of Pioneer and the Pioneer Railroads when Related Infrastructure transferred its interest in Related BRX Holdings to Related Infrastructure Holdings, the organizational chart provided by RFM depicted both Related Infrastructure and Related Infrastructure Holdings as being under RFM's control. *Id.* at 4. Additionally, the Board noted that neither of the agreements provided by RFM appeared to be relevant to the transaction in which it acquired control of Pioneer and the Pioneer Railroads. *Id.*

On January 6, 2021, RFM filed a supplement to its notice clarifying when it acquired control of Pioneer and the Pioneer Railroads. According to RFM, ''[o]n December 13, 2019, the ownership interests in Related Fund Management were distributed to the owners of Related Companies and on the same date, immediately following that distribution, were contributed by those owners to RFM in exchange for equity interests in RFM.'' (RFM Suppl. 2, FD 36306 (Sub-No. 1) et al.) On February 17, 2021, Baupost and Infravest Managers submitted a letter in Docket No. FD 36451 requesting that the proceeding be removed from abeyance and the exemption granted with an effective date in advance of the ''End Date'' in the parties' purchase agreement.

Discussion and Conclusions

Under 49 U.S.C. 11323(a)(4), the ''[a]cquisition of control of at least 2 rail carriers by a person that is not a rail carrier'' requires Board authorization.

[2] The supplement was filed by Baupost and US Infravest Managers LP, but facts regarding Related Infrastructure and its affiliates were verified by Richard O'Toole, Vice President of Related Fund Management, LLC (Related Fund Management). (*See* Baupost Suppl. 5, Nov. 2, 2020, FD 36451.)

[3] Baupost and Infravest Managers stated that, when the verified notice was filed in Docket No. FD 36306, Related Acquisitions held the majority ownership interest in BRX Transportation, and ''Related Infrastructure—the entity authorized to control Pioneer and the Pioneer Railroads through that proceeding—directly owned and controlled Related Acquisitions.'' (Baupost Suppl. 2, Nov. 2, 2020, FD 36451.)

The verified notices of exemption at issue in these proceedings were submitted under the class exemption procedures found at 49 CFR 1180.2(d)(2), which provide an expedited process for obtaining control authority under 11323. These streamlined class exemption procedures are reserved for transactions involving routine, uncomplicated, and non-controversial matters, and which do not raise substantial factual and legal issues. *See S. San Luis Valley R.R.—Acquis. & Operation Exemption—Iowa Pac. Holdings, LLC,* FD 35586 et al., slip op. at 2 (STB served Feb. 10, 2012) (rejecting notice of exemption raising substantial questions about prior acquisitions); *V & S Ry.—Aban. Exemption—in Kiowa Cnty., Colo.,* AB 603 (Sub-No. 3X), slip op. at 2 (STB served June 17, 2014).

The Verified Notices of Exemption. The verified notice filed by RFM and the verified notice filed by Baupost and Infravest Managers will be rejected because both matters are sufficiently complicated and non-routine to make them inappropriate for consideration under the streamlined class exemption procedures of 49 CFR 1180.4(g). Both proceedings involve the unauthorized acquisitions of control of Pioneer and the Pioneer Railroads by Related Companies and entities within RFM's corporate family. RFM acquired control of Pioneer and the Pioneer Railroads, without Board authorization, from Related Companies, which itself also did not have Board authorization to control Pioneer and the Pioneer Railroads. (*See* RFM Verified Notice 3, FD 36306 (Sub-No. 1) et al.) Baupost and Infravest Managers are seeking to acquire control of Pioneer and the Pioneer Railroads from Related Infrastructure Holdings, a subsidiary of RFM, which does not currently have authority to control Pioneer and the Pioneer Railroads. Although RFM has sought after-the-fact control authority, Related Companies has not. RFM has argued both that Related Companies need not seek after-the-fact control authority, and that the Board should grant that authority to Related Companies through the Board's streamlined class exemption procedures even though Related Companies did not itself request it.[4] (RFM Verified Notice 5 n.6, FD 36306 (Sub-No. 1) et al.) The facts cited during these proceedings, as described in detail above, demonstrate that these matters are not routine and require scrutiny by the Board outside of the streamlined class exemption procedures. *See S. San Luis Valley R.R.,* FD 35586 et al., slip op. at 2–3. Therefore, the verified notices in Docket Nos. FD 36451 and FD 36306 (Sub-No. 1) will be rejected.

The Board also notes that the information provided during the course of these proceedings has at times been incomplete or inaccurate.[5] For example, Baupost and Infravest Managers, in their notice, identified the entity from which they were acquiring control of Pioneer and the Pioneer Railroads as ''an affiliate of'' Related Infrastructure, without further detail. (*See* Baupost Verified Notice 3, FD 36451.) Later, the November 2, 2020 supplement filed in Docket No. FD 36451 provided incorrect information that identified Related Infrastructure Holdings as a ''subsidiar[y] of Related Fund Management LLC,'' notwithstanding that the facts in the supplement ''regarding Related Infrastructure LLC and its affiliates'' were verified by an official at Related Fund Management. (*See* Baupost Suppl. 1–2, FD 36451, Nov. 2, 2020, FD 36451.) Only after the Board postponed the effective date of the exemption in Docket No. FD 36451 and requested that Related Companies seek acquisition authority did the Board learn that Related Companies had transferred control of Pioneer and the Pioneer Railroads to RFM. RFM, for its part, filed a verified notice that failed to identify the date on which RFM acquired control of Pioneer and the Pioneer Railroads, which was later cured through its January 6 supplement. While the record does not indicate bad faith by these parties, inaccuracies and omissions such as these raise questions that often cannot be adequately addressed under the streamlined class exemption procedures. It is important for parties to ensure that their filings in exemption (and other) proceedings are accurate and complete. Nevertheless, as discussed below, the Board has now received from the parties adequate information for the Board to assess, sua sponte and pursuant to the exemption standard set forth at 49 U.S.C. 10502(a), the appropriateness of granting exemptions in these proceedings.[6]

The Sua Sponte Exemptions. As noted, the Board has now received multiple filings in these proceedings providing information about the transactions involving Related Companies and RFM that occurred without Board authority. Although there does not appear to be bad faith, this does not excuse the failures to obtain Board authorization; and while RFM has now sought to cure the defect, the Board remains troubled that the parties did not adequately consider the required authorizations at the appropriate time.

When it rejects verified notices in non-routine or controversial cases, the Board often requires parties to seek the necessary authority by petition for exemption or application. Here, however, an extensive record has already been developed through the supplemental pleadings. Additionally, the Board is mindful of the fact that the proposed acquisition by Baupost and Infravest Managers to acquire Pioneer and the Pioneer Railroads is also pending before the Board. That transaction, but for the failures of the selling entity (RFM and its subsidiaries) discussed above, would have met the standards for the expedited class exemption process. To require RFM to file a petition for exemption or application to remedy the prior unauthorized transactions would further delay, and possibly frustrate, Baupost and Infravest Managers' proposed transaction. (Baupost Letter 1, Feb. 17, 2020, FD 36451.) No party has sought to oppose Baupost and Infravest Managers' proposed acquisition of control of the Pioneer Railroads, and one of the stated goals of that transaction is to ''improve Pioneer's efficiency, financial strength, and ability to meet the needs of shippers.'' (Baupost Verified Notice 5, FD 36451.) Baupost argues that further delaying its acquisition would, among other things, ''affect the ability of Pioneer and the Pioneer Railroads to accelerate capital expenditures.'' (Baupost & Infravest Managers Letter 2, Dec. 3, 2020, FD 36451.)

For the reasons discussed above and based on the particular facts of this case, the Board concludes that it is appropriate to consider granting the exemptions sua sponte pursuant to 10502. *See, e.g., BNSF Ry.—Pet. for Declaratory Order,* FD 35164 et al., slip op. at 10 (STB served May 20, 2009); *Borealis Infrastructure Trust Management—Acquis. Exemption—Detroit River Tunnel Co.,* FD 33984 et al., slip op. at 6 (STB served Dec. 19, 2001). The Board will consider here the merits of the exemptions requested in these dockets and, as discussed further

[4] RFM was formed by equity owners of Related Companies, but RFM and Related Companies are not under common control because the equity owners do not have control of either Related Companies or RFM. (RFM Verified Notice 3–4 & n.4, FD 36306 (Sub-No. 1) et al.)

[5] Given the Board's finding that the class exemption procedures are inappropriate in light of the facts and circumstances, it need not address whether the notices were also false or misleading. *See, e.g.,* 49 CFR 1180.4(g)(1)(ii).

[6] In granting acquisition authority sua sponte, the Board would effectively proceed as though the parties had formally petitioned for exemption. The Board will consider below the value of requiring such petitions at this stage of the proceedings and the harm that could arise from the ensuing delay.

below, will grant the exemptions sua sponte.

As RFM, Baupost, and Infravest Managers are each noncarriers, their acquisitions of control of the Pioneer Railroads require prior Board approval under 49 U.S.C. 11323(a)(4). Because the acquisitions of control do not involve the merger or control of at least two Class I railroads, approval of the transactions is governed by 49 U.S.C. 11324(d). However, under 49 U.S.C. 10502(a), the Board must exempt a transaction or service from regulation upon finding that: (1) Regulation is not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

Here, exemptions from the prior approval requirements of sections 11323–25 are consistent with 10502(a). Detailed scrutiny of the acquisitions of control of the Pioneer Railroads in each docket is not necessary to carry out the RTP. An exemption from the application process would promote a fair and expeditious regulatory decision-making process, minimize the need for Federal regulatory control, reduce regulatory barriers to entry, and result in more expeditious handling of this proceeding. *See* 49 U.S.C. 10101(2), (7), (15). Other aspects of the RTP would not be adversely affected.

Regulation of these transactions is not needed to protect shippers from the abuse of market power. RFM states that it ''does not own or control any other carriers other than the Pioneer Railroads, nor did it, or its equity owners, at the time of its formation.'' (RFM Verified Notice 4 n.5, FD 36306 (Sub-No. 1) et al.) Accordingly, RFM's 2019 acquisition of control of Pioneer and the Pioneer Railroads did not create any adverse change in competition among rail carriers or between rail carriers and other modes. For their part, Baupost and Infravest Managers also state that they ''are not themselves rail carriers and do not currently control any rail carriers,'' (Baupost Verified Notice 4, FD 36451), so their proposed acquisition of Pioneer and the Pioneer Railroads similarly would not adversely affect the competitive landscape so as to require regulation to protect shippers from an abuse of market power.[7]

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, precludes the Board from imposing labor protections for transactions involving only Class III rail carriers. Because all the Pioneer Railroads are Class III carriers, the Board may not impose labor protections here.

In light of Baupost's and Infravest Managers' request regarding the effective date, the exemptions will be effective on March 26, 2021. Petitions to stay will be due by March 24, 2021.

The transactions are categorically excluded from environmental review under 49 CFR 1105.6(c)(1) and from the historic reporting requirements under 49 CFR 1105.8(b).

It is ordered:

1. The verified notices of exemption in Docket Nos. FD 36306 (Sub-No. 1) and FD 36451 are rejected.

2. In Docket No. FD 36306 (Sub-No. 1), under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323–25 RFM's 2019 acquisition of control of the Pioneer Railroads.

3. In Docket No. FD 36451, under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323–25 Baupost's and Infravest Managers' acquisition of control of the Pioneer Railroads from RFM.

4. Notice of the exemptions will be published in the **Federal Register**.

5. The exemptions will be effective on March 26, 2021. Petitions to stay will be due by March 24, 2021.

Decided: March 18, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz. Board Member Primus dissented with a separate expression.

Board Member Primus, dissenting:

This case is extremely troubling and lays bare gaps in compliance that I am not willing to excuse. The focus of my displeasure is not directed toward Baupost and Infravest Managers, but rather Related Companies and RFM. When the history of Related Companies and RFM is taken into account, specifically their inability to provide accurate and complete information to the Board with respect to ownership, what we have before us is at best a comedy of errors and at worst a blatant disregard for the Board's role as the economic regulator of the rail industry.

The Board was faced with two notices of exemption involving a chain of unauthorized transactions. Details surrounding the history of the ownership of Pioneer and the Pioneer Railroads is murky and unnecessarily complicated. Upon further review, it was revealed that Related Companies never obtained Board authorization to acquire Pioneer and the Pioneer Railroads. Similarly, RFM skirted Board authority when it acquired the railroad entities from Related Companies. Only now, when Baupost and Infravest Managers have come before the Board to acquire control of these railroad entities, has RFM decided to step into the light.

Failure to obtain the required Board authority lies squarely with RFM. Both RFM and its subsidiaries (and Related Companies before it) did not bother to adhere to 49 U.S.C. 11323, which clearly requires an entity seeking to purchase/acquire a railroad to obtain Board authority. Given the fact that the proposed acquisition involves unauthorized transactions, it was incumbent upon the parties to be forthcoming with accurate and complete information about the ownership and relationship of the numerous railroads involved in the proposed transaction. This clearly did not happen.

Accordingly, I do not believe that the selling entity should be permitted to benefit or profit from such a transaction without first curing its unauthorized acquisition. While RFM has asked for after-the-fact authority, it has done so through the Board's streamlined class exemption procedures, which are reserved for transactions involving routine, uncomplicated, and non-controversial matters, and not appropriate here. Moreover, Related Companies has not sought after-the-fact authority for its unauthorized acquisition.

My hope is that, moving forward, the Board will begin to look at ways to effectively promote greater compliance and transparency as it relates to the licensing of rail activities. For those who continue to operate outside the rules, stronger enforcement, including the administering of severe penalties when appropriate, should prevail.

For these reasons, I respectfully dissent.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2021–06066 Filed 3–23–21; 8:45 am]

BILLING CODE 4915–01–P

[7] Because this decision finds that regulation is not necessary to protect shippers from the abuse of market power, the Board need not determine whether the transaction is limited in scope. *See* 49 U.S.C. 10502(a)(2).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0819]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: National Sleep Study

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The collection involves study on relationships between aircraft noise events and the probability of awakening.

DATES: Written comments should be submitted by April 23, 2021.

ADDRESSES: Send comments identified by docket number FAA–2019–0819 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Sean Doyle by email at: *sean.doyle@faa.gov;* phone: 202–267–3493.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–XXXX.
Title: National Sleep Study.
Form Numbers: None.
Type of Review: Clearance of a new information collection.

Background: As part of FAA's broader noise research program, the National Sleep Study has been designed to collect nationally representative information on the effects of aircraft noise on sleep and to derive exposure-response relationships between aircraft noise and its effect on communities around United States civilian airports. This Study will collect information from residents living near airports to determine their probability of awakening due to aircraft noise exposure. The FAA will use the information from this collection to derive the empirical data to inform any potential updates to or validation of the national aviation noise policy. Further information on National Sleep Study as part of the FAA's noise research program was also made available through a separate notice 86 FR 2722.

Respondents: Approximately 4,400 respondents to 25,000 postal surveys (18% response rate). From among these survey respondents, approximately 400 respondents (9.1%) will be recruited into the field study.

Frequency: Response to the postal survey, and participation in the field study, will be a one-time event.

Estimated Average Burden per Response: The postal survey will take an estimated 8.25 minutes to complete. The field study will take an estimated 2 hours and 33 minutes of active participation across 5 study days to complete.

Estimated Total Annual Burden: The estimated total annual burden for the postal survey is 302 hours and 30 minutes in each of the two years of the study, and 510 hours for field study.

Issued in Washington, DC.

Kevin Welsh,

Executive Director, FAA Office of Environment & Energy.

[FR Doc. 2021–06045 Filed 3–23–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0100; Notice 1]

Nissan North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Nissan North America, Inc. (Nissan) has determined that certain model year (MY) 2020 Nissan Sentra motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Nissan filed a noncompliance report dated August 26, 2020. Nissan subsequently petitioned NHTSA on September 18, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Nissan's petition.

DATES: Send comments on or before April 23, 2021.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and

will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview

Nissan has determined that certain MY 2020 Nissan Sentra motor vehicles do not fully comply with the requirements of paragraph S10.18.9.1.2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associate Equipment* (49 CFR 571.108). Nissan filed a noncompliance report dated August 26, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Nissan subsequently petitioned NHTSA on September 18, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Nissan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Motor Vehicles Involved

Approximately 5,520 MY 2020 Nissan Sentra motor vehicles, manufactured between November 26, 2019, and March 24, 2020, are potentially involved.

III. Noncompliance

Nissan explains that the noncompliance is that the right-hand LED headlamp aim in the subject vehicle may be misaligned resulting in a vertical gradient value below 0.13 as required by paragraph S10.18.9.1.2 of FMVSS No. 108.

IV. Rule Requirements

Paragraph S10.18.9.1.2 of FMVSS No. 108 includes the requirements relevant to this petition. *Vertical gradient.* The gradient of the cutoff measured at either 2.5° L or 2.0° R must be not less than 0.13 based on the procedure of S10.18.9.1.5.

V. Summary of Nissan's Petition

The following views and arguments presented in this section, ''V. Summary of Nissan's Petition,'' are the views and arguments provided by Nissan. They have not been evaluated by the Agency and do not reflect the views of the Agency. Nissan describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Nissan provided NHTSA with the following:

1. Nissan states that the supplier (Ichikoh) did not apply the correct aiming logic when setting the head lamp aim parameters in the subject vehicles and, as a result, the right-hand LED headlamp aim may be misaligned resulting in a vertical gradient value below 0.13. Nissan asserts that a lower G-Value will lead to a headlamp cut line that is slightly less sharp. Ichikoh inspected 3,506 lamps and found 572 lamps with a G-Value below 0.13. However, when the cut-off value is brought down to two decimals instead of three (per the express requirement in FMVSS No. 108), only 286 lamps (about 8%) fall below the 0.13 minimum threshold. Of the 286 lamps, 248 (about 87%) are at a gradient value of 0.12.

2. Ichikoh has also confirmed that, even when the G-Value is below 0.13, all points of the Light Distribution achieve the required specifications of FMVSS No. 108 for both the low and high beam performance.

3. Nissan states that it has not received any reports from the field of customer complaints, warranty claims, crashes, injuries, or fatalities related to this issue.

4. Nissan contends that the purpose of the gradient requirement is to assist in headlamp re-aiming. Nissan says that the vehicles potentially affected by this issue were aimed properly at the factory using a different aiming method. Therefore, the only potential concern would relate to re-aiming performed after the vehicle has been in use. Aiming of the headlamps by a service technician in the field is an event that is expected to occur infrequently. To confirm this, Nissan searched its repair order database for repair orders on the previous generation Sentra that involved re-aiming of the headlamps. Out of 1,389,330 vehicles, only 161 repair orders were found that involved headlamp aiming. This rate of repair would be 0.011% of vehicles. If the same rate of repair is applied to the expected 420 vehicles in the subject population, we would expect only 0.05 vehicles of the subject population to require a re-aiming in the field.

5. Nissan asserts that the difference in gradient values between 0.12 and 0.13 does not materially affect the ability of a service technician to properly aim the lamp in the rare case that this would need to be done in the field.

6. Even if the lamps had to be re-aimed at some point, according to Nissan, it is unlikely the driver or other motorists would notice any glare or observable difference in operation between a fully compliant lamp and the subject lamps, based on the conditions described above.

7. In the subject parts, all points of the light distribution achieve the required specifications of FMVSS No. 108 for both the low and high beam performance.

Nissan concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Nissan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Nissan notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2021–06025 Filed 3–23–21; 8:45 am]

BILLING CODE 4910–59–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board Subcommittee Meeting

TIME AND DATE: March 25, 2021, from Noon to 2:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 988 1565 4454, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/j/98815654454.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Audit Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—Subcommittee Chair

The Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—Subcommittee Chair

For Discussion and Possible Subcommittee Action

The Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

- Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Minutes from the December 3, 2020 Meeting—Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the December 3, 2020 Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Update on the Tracking of Audit Data in the DSL Focused Anomaly Reviews (FARs)—Subcommittee Chair

The Subcommittee Chair will discuss the merits of the Subcommittee having an oversight role in the audit notes on closed audits regarding the FARs and MCS–150 databases when there is an indication of an error or insufficient documentation to close the audit.

VI. MCS–150 Retreat Audit Program—Subcommittee Chair and DSL Transportation

The Subcommittee Chair and DSL Transportation will lead a discussion regarding the MCS–150 retreat audit program provided by UCR and the progress made with participating states. States may opt into the program. States will remain engaged in the audit process but may have a lesser burden of having to attend to unresponsive/unproductive retreat audits.

VII. Review the Leasing Company Guidance for Large Leasing Companies (Penske)—Subcommittee Chair

The Subcommittee Chair will lead a discussion regarding potential conflicting guidance for these companies.

VIII. Intrastate Carriers Processing Payment—Subcommittee Chair and Subcommittee Vice Chair

The Subcommittee Chair and Subcommittee Vice Chair will lead a discussion regarding these carriers contacting their financial institution to withdraw payment and how this action leaves those carriers permanently on the UCR Suspension Report. The states have no way of removing them from the report. The Subcommittee may discuss options for resolution of these issues.

IX. Motor Carriers with Repeated Suspended Payments for a Registration Year—Subcommittee Chair and Subcommittee Vice Chair

The Subcommittee Chair and Subcommittee Vice Chair will lead a discussion regarding the resolution of these suspended payments.

X. Motor Carriers Suspended in a Prior Year, May be Reported Suspended for the Current Year—Subcommittee Chair and Subcommittee Vice Chair

The Subcommittee Chair and Subcommittee Vice Chair will lead a discussion regarding carriers that were suspended in a prior registration year, then properly paid registration fees for the current year, may now show suspended for both years. The Subcommittee will discuss options for the resolution of these suspended payments.

XI. Allowing Motor Carrier to Process 2020/2021 UCR on Inactive USDOT (inactivated 2014)—Subcommittee Chair and Subcommittee Vice Chair

The Subcommittee Chair and Subcommittee Vice Chair will lead a discussion regarding the suspended payments.

XII. Review the Requirements for the 2020 Annual State Audit Report—Subcommittee Chair

The Subcommittee Chair will lead a discussion regarding the reports and percentages for the annual report to the Board which is due by June 1, 2021.

XIII. Other Items—Subcommittee Chair

The Subcommittee Chair will call for any other items the committee members would like to discuss.

XIV. Adjournment—Subcommittee Chair

The Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, March 18, 2021 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2021–06151 Filed 3–22–21; 11:15 am]

BILLING CODE 4910–YL–P

FEDERAL REGISTER

Vol. 86 Wednesday,
No. 55 March 24, 2021

Part II

The President

Proclamation 10157—National Poison Prevention Week, 2021

Federal Register
Vol. 86, No. 55
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Presidential Documents

Title 3—

The President

Proclamation 10157 of March 19, 2021

National Poison Prevention Week, 2021

By the President of the United States of America

A Proclamation

Sixty years ago, the Congress established National Poison Prevention Week to remind all Americans to stay vigilant and protect our families from the often hidden threat of poisoning. Never has that reminder been more timely than this year—9 out of 10 poisonings occur inside the home, and with families spending more time indoors due to the COVID–19 pandemic, children and isolated seniors are at an increased risk of accidental poisoning that could result in injury or death.

Young children are particularly vulnerable to accidental poisoning because—as every parent knows—children tend to explore objects with their hands and mouths. That's especially true when it comes to products with floral or fruity aromas, or those that come in colorful packaging. Hand sanitizer, household cleaning products, laundry packets, medications, coin cell batteries, and liquid nicotine are among the most commonly ingested products; these and similar items should be stored in child-resistant packaging and kept out of sight and out of reach of children. Medications should be secured and, if possible, locked away. And unfinished or unused medicine should be properly discarded—many pharmacies and police departments have disposal kiosks for just that purpose.

In 2019, approximately 67,500 of our Nation's children under the age of 5 had to visit the emergency room due to unintended poisoning. About 85 percent of these incidents occurred in the home, most often because they ingested blood pressure medications, acetaminophen, bleach, ibuprofen, antidepressants, attention deficit disorder medications, or laundry packets. Elderly Americans are also at risk of mistaking medications and ingesting household products; for seniors who are isolated due to the pandemic, it is particularly important to secure and clearly label medications and poisonous substances.

Poison control centers are a vital component of our Nation's response to poisonings. Centers across the United States operate around the clock and respond to approximately three million calls every year from the public, as well as from health care providers, 911 public-safety access points, health departments, law enforcement, first responders, and other safety agencies. They represent our first line of defense in many cases, including when it comes to the opioid epidemic that continues to devastate so many of our families and communities.

According to the Centers for Disease Control and Prevention, overdose deaths have increased significantly in the past several years. Opioids are the main driver for this increase, killing nearly 47,000 people in the United States in 2018. Two out of three opioid-involved overdose deaths involve synethic opioids, including illegally manufactured fentanyl. When used in combination with other drugs, with or without the user's knowledge, it can be poisonous and deadly.

But even legal substances, like liquid nicotine, can pose a deadly risk. Ingestion of small amounts of liquid nicotine can be extremely hazardous and even deadly to children, which is why the Consumer Product Safety Commission has warned vape shops and other retailers that selling liquid

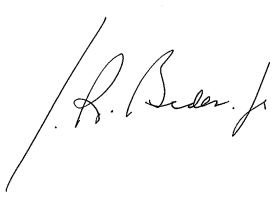
nicotine without proper packaging violates Federal law. To avoid potential poisonings, always store liquid nicotine in its child-resistant packaging, tightly seal the container after each use, and keep it locked or stored away from children.

If you believe someone has been poisoned, immediately call the Poison Control Help line at 800–222–1222. For more information, go to poisonhelp.org.

To encourage Americans to learn more about the dangers of unintentional poisonings and to take appropriate preventive measures, on September 26, 1961, the United States Congress, by joint resolution (75 Stat. 681), authorized and requested the President to issue a proclamation designating the third week of March each year as ''National Poison Prevention Week.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim March 21 through March 27, 2021, to be National Poison Prevention Week. I call upon all Americans to observe this week by taking actions to safeguard their families from poisonous products, chemicals, and medicines often found in our homes, and to raise awareness of these dangers to prevent accidental injuries and deaths.

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



[FR Doc. 2021–06252
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