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Presidential Documents

Title 3—

The President

Proclamation 10161 of March 24, 2021

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2021

By the President of the United States of America

A Proclamation

Exactly 200 years ago, inspired by the same ideals of liberty, self-governance, and passionate belief in democracy that sparked the American Revolution, the people of Greece declared their independence. Today, the people of the United States join the Greek people in commemorating the creation of the modern Greek state—and celebrating two centuries of enduring friendship between our nations.

On Greek Independence Day, we celebrate the history and values that unite the United States of America and the Hellenic Republic. Our Founding Fathers drew inspiration from ancient Greece's example as they framed our Constitution and formed the world's first modern democracy. A few decades later, American Philhellenes championed Greece's quest for independence, forging a close connection between our peoples that has flourished over the ensuing years.

During the course of my career, I have had the privilege to work closely with many Greek Prime Ministers. I have been blessed by lifelong friendships in the Greek-American community, including with a great leader whom we recently lost, Senator Paul Sarbanes. From a young age, I have admired the courage, decency, and honor that defines the Greek community—the unwillingness to bend or bow in the face of injustice, or to accept abuses of power.

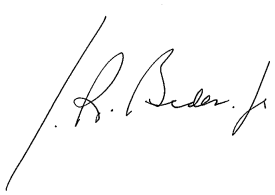
Today, Greece is a crucial NATO ally and friend of the United States, and a leader for peace and prosperity in the Eastern Mediterranean, Black Sea, and Western Balkans regions. The United States welcomes Greece's commitment to hosting the United States Naval Support Activity at Souda Bay, Crete, and United States rotational forces elsewhere in Greece. Through our ongoing Strategic Dialogue, we have advanced our relationship in nearly every respect. We have accelerated progress on making the region a safer place, and we have increased trade and investment that brings jobs and prosperity to the people of our nations and to the world.

Our strong and historic relationship continues to grow in depth and breadth. We have diversified the region's energy sources, enhanced educational and cultural exchanges, partnered on counterterrorism, and reconfirmed our commitment to the rule of law. As we honor our shared history and accomplishments, we believe the common values that have guided our societies for 200 years will help us accomplish even more together in the years to come.

This bicentennial reminds Americans and Greeks alike of the enduring strength of the principles that sparked our respective revolutions and the values that uphold our democracies. We congratulate Hellenic-American organizations, the estimated three million Americans of Greek descent, and the Greek people on a year of commemorations and events celebrating this historic milestone in both the United States and Greece. Together, we will continue to lift high the lamp of democracy, whatever challenges come our way.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2021, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy, and I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth 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. 2021–06536
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Billing code 3295–F1–P

Presidential Documents

Proclamation 10162 of March 24, 2021

National Equal Pay Day, 2021

By the President of the United States of America

A Proclamation

Equal Pay Day is a reminder of the work that still remains to advance equity and ensure that all Americans have the opportunity to reach their full potential. This day is a symbolic representation of how far into this year women must work to catch up to what men made in the previous year. Women working full-time, year-round are typically paid just 82 cents for every dollar paid to men. It is a day that calls us to action—to renew our commitment to the principles of equity and equal opportunity that define who we are as Americans.

Women lose thousands of dollars each year, and hundreds of thousands over a lifetime, because of the gender and racial wage gap. In 2019, the typical woman who worked full time took home just 82 percent of the typical man's pay. The disparities are even greater for Black, Native American, and Hispanic women, who earned 63 percent, 60 percent, and 55 percent of white men's wages, respectively. While Asian American women make 87 percent of what white men make, the gap for Asian women varies significantly depending on subpopulation, with some Asian women—for example, Cambodian and Vietnamese women—earning among the lowest wages. Those gaps mean we will not be marking Latinas' Equal Pay Day until October—because it takes that long for the average Latina to earn what the average white man made in the previous year. Since the COVID–19 pandemic began, we have seen women, particularly women of color, disproportionately working on the frontlines, caring for our loved ones, and working to combat the virus—but they continue to earn less than their male counterparts.

The Biden-Harris Administration believes that ensuring equal pay is essential to advancing America's values of fairness and equity as well as our economic strength here at home and our competitiveness abroad. The burdens and job losses women sustained this year have erased more than 30 years of progress they have made in the labor force. Due in large part to the impact of the pandemic, there are 4.2 million fewer women working now than there were in February 2020—and millions more women have had to reduce their hours, often in response to caregiving demands that we know fall disproportionately on women. America's economic recovery depends on us addressing the barriers that have hampered women from fully participating in the labor force, resulting in gender income and wealth gaps that have been magnified and exacerbated by COVID–19.

We must begin by passing the Paycheck Fairness Act, which will take important steps towards the goal of ending pay discrimination. For instance, it will ban employers from seeking salary history—removing a common false justification for under-paying women and people of color—and it will hold employers accountable who engage in systemic discrimination. The bill will also work to ensure transparency and reporting of disparities in wages, because the problem will never be fixed if workers are kept in the dark about the fact that they are not being paid fairly. Relying on individuals to uncover unfair pay practices on their own will not get the

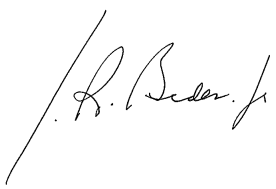
job done; when pay data is available, workers can better advocate for fair pay and employers can fix inequities.

We must also provide paid family and medical leave, make schedules more predictable and childcare more affordable, and build pipelines for training that enable women to access higher-paying jobs. This commitment also means increasing pay for childcare workers, preschool teachers, home health aides, and others in the care economy—and taking additional steps to increase wages for American workers, such as raising the minimum wage and empowering workers to organize and collectively bargain, both of which are important to reducing the wage gap for women.

Vice President Harris and I are committed to building back better: for low-wage workers, for working families, and for all women. There is still significant work to be done to make sure our daughters receive the same rights and opportunities as our sons, and that work is critical to ensuring that every American is given a fair shot to get ahead in this country. Today, on Equal Pay Day, we recognize the role that equal pay plays in building back better for everyone.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 24, 2021, as National Equal Pay Day. I call upon all Americans to recognize the full value of women's skills and their significant contributions to the labor force, acknowledge the injustice of wage inequality, and join efforts to achieve equal pay.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth 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.



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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AO–SC–20–J–0011; AMS–SC–19–0082; SC19–984–1]

Walnuts Grown in California; Order Amending Marketing Order No. 984.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Marketing Order No. 984, which regulates the handling of walnuts grown in California. The amendments were proposed by the California Walnut Board (Board) and add the authority for the Board to provide credit for certain market promotion expenses paid by handlers against their annual assessments due under the Order and establish requirements to effectuate the new authority. In addition, the Agricultural Marketing Service (AMS) made necessary changes to conform to the amendments adopted.

DATES: This rule is effective April 28, 2021.

FOR FURTHER INFORMATION CONTACT: Matthew Pavone, Chief, Rulemaking Services Branch, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 2025–0237; Telephone: (202) 720–2491, or Andrew Hatch, Acting Director, 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: *Matthew.Pavone@usda.gov* or *Andrew.Hatch@usda.gov.*

Small businesses may request information on this proceeding 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: Prior documents in this proceeding: Notice of Hearing issued on February 2, 2020, and published in the February 11, 2020, issue of the **Federal Register** (85 FR 7669); a Correction to the Notice of Hearing issued on April 9, 2020, and published in the April 10, 2020, issue of the **Federal Register** (85 FR 20202); a Recommended Decision issued on July 8, 2020, and published in the August 5, 2020, issue of the **Federal Register** (85 FR 47305); and a Secretary's Decision and Referendum Order issued October 5, 2020, and published in the October 20, 2020, issue of the **Federal Register** (85 FR 66491).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Orders 12866, 13563, and 13175.

Notice of this rulemaking action was provided to tribal governments through the Department of Agriculture's (USDA) Office of Tribal Relations.

Preliminary Statement

This action finalizes amendments to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California. Part 984 (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 final rule was formulated on the record of a public hearing held via videoconference technology on April 20 and 21, 2020. The hearing was held pursuant to the provisions of the Act, and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900). Notice of this hearing was published in the **Federal Register** on February 11, 2020 (85 FR 7669) followed by a Correction to the Notice of Hearing issued on April 9, 2020, and published in the April 10, 2020, issue of the **Federal Register** (85 FR 20202). The notice of hearing contained one proposal submitted by the Board and one submitted by USDA.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on July 8, 2020, filed with the Hearing Clerk, USDA, a Recommended Decision and Opportunity to File Written Exceptions thereto by September 4, 2020. No exceptions were filed.

A Secretary's Decision and Referendum Order was published in the **Federal Register** on October 20, 2020 (85 FR 66491), directing that a referendum be conducted during the period of November 30 through December 11, 2020, among eligible California walnut growers to determine whether they favored the proposed amendments to the Order. To become effective, per the Order, the amendments had to be approved by at least two-thirds of those growers voting, or by voters representing at least two-thirds of the volume of walnuts represented by voters voting in the referendum. The amendment to add credit back authority and establish requirements to effectuate the new authority was favored by 80.5 percent of the growers voting in the referendum, representing 82.8 percent of the total volume of walnuts produced by those voting.

The amendments favored by voters and included in this final order authorize the Board to provide credit for certain market promotion expenses paid by handlers against their annual assessments due under the Order and would establish requirements to effectuate the new authority.

AMS also recommended changes as were necessary to the Order so that all the Order's provisions conform to the effectuated amendments one to the language in § 984.46(a) and the other to the regulatory text in § 984.546(e)(5)(iii). The language in § 984.46(a) adds credit-back authority to the Order. USDA has determined that the language presented in the Notice of Hearing lacked a reference to the proposed, new paragraph (b) and only included a reference to proposed, new paragraph (c). USDA revised the language so that both new paragraphs are referenced in the regulatory text of this decision. USDA also made a clarifying change to the regulatory text in § 984.546(e)(5)(iii). The originally proposed wording of this paragraph by the Board does not

adequately state that in all promotional activities, regardless of whether a handler is operating independently or in conjunction with a manufacturer, or whether promoting a product that is solely walnut content or walnuts are a partial ingredient, the words ''California Walnuts'' must be included in the labeling in order for that activity to qualify as a creditable expenditure. The revised language is included in the regulatory text of this decision.

Small Business Considerations

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), 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 so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Walnut Industry Background and Overview

According to the hearing record, there are approximately 4,400 producers and 92 handlers in the production area. Record evidence includes reference to a study showing that the walnut industry contributes 85,000 jobs to the economy, directly and indirectly.

A small handler as defined by the SBA (13 CFR 121.201) is one that grosses less than $30,000,000 annually. A small grower is one that grosses less than $1,000,000 annually.

Record evidence showed that approximately 82 percent of California's walnut handlers (75 out of 92) shipped merchantable walnuts valued under $30 million during the 2018–2019 marketing year and would therefore be considered small handlers according to the SBA definition.

Data in the hearing record from the 2017 Agricultural Census, published by USDA'S National Agricultural Statistics Service (NASS), showed that 86 percent of California farms growing walnuts had walnut sales of less than $1 million.

In an alternative computation using NASS data from the hearing record, the 3-year average crop value (2016–2017 to 2018–2019) was $1.24 billion. Average bearing acres over that same 3-year period were 333,000. Dividing crop value by acres yields a revenue per acre estimate of $3,733. Using these numbers, it would take approximately 268 acres ($1,000,000/$3,733) to yield $1 million in annual walnut sales. The 2017 Agricultural Census data show that 80 percent of walnut farms in 2017 were below 260 acres. Therefore, well over three-fourths of California walnut farms would be considered small businesses according to the SBA definition.

During the hearing held April 20 and 21, 2020, interested parties were invited to present evidence on the probable regulatory impact of the amendments to the Order on small businesses. The evidence presented at the hearing shows that none of the amendments would have a significant economic impact on a substantial number of small agricultural growers or firms.

Material Issues

This action amends the Order to add authority to provide credit for market promotion expenses paid by handlers against their annual assessments due under the Order and establishes rules and regulations to effectuate the new authority. These authorities will help build towards increasing domestic demand and utilizing the industry's expanding supply of walnuts.

During the hearing held on April 20 and 21, 2020, interested persons were invited to present evidence on the probable regulatory and informational impact of the amendments to the Order on small businesses. The evidence presented at the hearing shows that the amendments would have no burdensome effects on small agricultural producers or firms.

The hearing record shows that most of the grower and handler witnesses stated that a key reason for seeking credit-back authority was the need to increase demand after years of unfavorable marketing conditions. Witnesses stated that a key factor in their support of seeking new ways to increase market demand was several years of deteriorating profitability.

Record evidence indicates that all industry members, growers and handlers, will benefit proportionally from an increase in demand brought about due to the credit-back program. The credit-back program will be funded by allocating to the credit-back program a portion of the total Board promotional budget, funded at the current assessment rate. With no increase in the Board's assessment rate, there will be no increased costs to growers or handlers.

All handlers, large and small, will benefit proportionally by participating in the credit-back program. Handlers will participate only if they decide that they will benefit, and will incur no costs if they choose not to participate. No handler can benefit disproportionately from the program, since a handler's maximum credit-back payment from the Board is based on that handler's share of total industry acquisitions from the prior year, according to the hearing record.

The record shows that the proposal to add authority to establish the credit-back program would, in itself, have no significant economic impact on producers or handlers of any size. Costs of complying with the new program will include handler maintenance and delivery of receipts and documentation for reimbursement of creditable expenditures, but these will be minimal and are considered standard business practices.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule. These amendments are intended to improve the operation and administration of the Order and to assist in the marketing of California walnuts.

Paperwork Reduction Act

Current information collection requirements that are part of the Federal marketing order for California walnuts (7 CFR part 984) are approved under OMB No. 0581–0178 Vegetables and Specialty Crops. No changes in these requirements are anticipated as a result of this proceeding. Should any such changes become necessary, they would be submitted to OMB for approval.

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.

AMS is committed to complying with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Civil Justice Reform

The amendments to the Order proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

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 an 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 entry of the ruling.

Order Amending the Order Regulating the Handling of Walnuts Grown in California [1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary to the findings and determinations that were previously made in connection with the issuance of the Marketing Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) Findings and Determinations Upon the Basis of the Hearing Record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon proposed further amendment of Marketing Order No. 984, regulating the handling of walnuts grown in California.

Upon the basis of the record, it is found that:

(1) The marketing order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby proposed to be further amended, regulates the handling of walnuts grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing order upon which a hearing has been held;

(3) The marketing order, as amended, and as hereby proposed to be further amended, is limited in its application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of walnuts grown in California; and

(5) All handling of walnuts grown in the production area as defined in the marketing order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of walnuts grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the order contained in the Recommended Decision issued on July 8, 2020, and published in the August 5, 2020, issue of the **Federal Register** (85 FR 47305) will be and are the terms and provisions of this order amending the order and are set forth in full herein.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

Accordingly, AMS amends 7 CFR part 984 as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 984.46 to read as follows:

§ 984.46 Research and development.

(a) *Research and development authorities.* The Board, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of walnuts. The expenses of such projects shall be paid from funds collected pursuant to §§ 984.69 and 984.70 and may be credited back pursuant to paragraphs (b) and (c) of this section.

(b) *Credit-back for promotion expenses.* The Board may provide for crediting the pro rata expense assessment obligations of a handler with such portion of his or her direct expenditure for marketing promotion, including paid advertising, as may be authorized. The credit-back amount available to each handler shall be determined by that handler's percent of the industry's total volume of walnuts handled during the prior marketing year multiplied by the current marketing year's credit-back program budget. No handler shall receive credit-back for any creditable expenditures that would exceed the total amount of credit-back available to him or her for the applicable marketing year. Further, no handler shall receive credit-back in an amount that exceeds that handler's assessments paid in the applicable marketing year at the time the credit-back application is made. Marketing promotion expenses shall be credited at a rate recommended by the Board and approved by the Secretary, where the credit rate is based on the amount per dollar of marketing promotion expenses for creditable expenditures paid by a handler during the applicable marketing year. Credit may be paid directly to the handler as a reimbursement of assessments paid or may be issued as recommended by the Board and approved by the Secretary. The Board may also establish, subject to the approval of the Secretary, different credit rates for different products or different marketing promotion activities according to priorities determined by the Board and its marketing plan.

(c) *Creditable expenditures.* The Board, with the approval of the Secretary, may credit-back all or any portion of a handler's direct expenditures for marketing promotion including paid advertising that promotes the sale of walnuts, walnut products or their uses. Such expenditures may include, but are not limited to, money spent for advertising space or time in newspapers, magazines, radio, television, transit, and outdoor media, including the actual standard agency commission costs not to exceed 15 percent, or as otherwise recommended by the Board and approved by the Secretary.

■ 3. Add subpart D, consisting of § 984.546, to read as follows:

[1] This Order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Subpart D—Research and Development Requirements

§ 984.546 Credit for marketing promotion activities, including paid advertising.

(a) *Timeliness of reimbursement claim and credit-back rate.* For a handler to receive credit-back for his or her own marketing promotional activities pursuant to § 984.46, the Board shall determine that such expenditures meet the applicable requirements of this section. Credit-back may be granted in the form of reimbursement for all creditable expenditures paid within the applicable marketing year subject to the effective credit-back rate; *Provided,* that such creditable expenditures are documented to the satisfaction of the Board within 15 days after the end of that marketing year. Credit may be granted for a handler's creditable expenditures in an amount not to exceed that handler's pro-rata share of the credit-back fund. No more than 70 cents ($0.70) shall be credited back to a handler for every dollar spent on qualified activities.

(b) *Assessment payments.* The handler assessment is due as defined in § 984.69. A handler shall be current on all assessment payments prior to receiving credit-back for creditable expenditures.

(c) *Handler eligibility for reimbursement.* The Board shall grant credit-back for qualified activities only to the handler who performed such activities and who filed a claim for credit-back in accordance with this section.

(d) *Applicability to marketing year.* Credit-back shall be granted only for creditable expenditures for qualified activities that are conducted and completed during the marketing year for which credit-back is requested.

(e) *Qualified activities.* The following requirements shall apply to all creditable expenditures resulting from qualified activities:

(1) Credit-back granted by the Board shall be that which is appropriate when compared to accepted professional practices and rates for the type of activity conducted. In the case of claims for credit-back activities not covered by specific and established criteria, the Board shall grant the claim if it is consistent with practices and rates for similar activities.

(2) The clear and evident purpose of each qualified activity shall be to promote the sale, consumption or use of California walnuts.

(3) No credit-back will be given for any activity that targets the farming or grower trade.

(4) Credit-back will not be allowed in any case for travel expenses, or for any promotional activities that result in price discounting.

(5) Credit-back shall be granted for those qualified activities specified in paragraphs (e)(5)(i) through (iv) of this section:

(i) Credit-back shall be granted for paid media directed to end-users, trade or industrial users, and for money spent on paid advertising space or time, including, but not limited to, newspapers, magazines, radio, television, online, transit and outdoor media, and including the standard agency commission costs not to exceed 15 percent of gross.

(ii) Credit-back shall be granted for market promotion other than paid advertising, for the following activities:

(A) Marketing research (except pre-testing and test-marketing of paid advertising);

(B) Trade and consumer product public relations: Provided, that no credit-back shall be given for related fees charged by an advertising or public relations agency;

(C) Sales promotion (in-store demonstrations, production of promotional materials, sales and marketing presentation kits, etc., excluding couponing); and

(D) Trade shows (booth rental, services, and promotional materials).

(iii) For any qualified activity involving a handler promoting branded products, a handler selling multiple complementary products, including other nuts, with such activity including the handler's name or brand, or joint participation by a handler and a manufacturer or seller of a complementary product(s), the amount allowed for credit-back shall reflect that portion of the activity represented by walnuts. If the product is owned or distributed by the handler, in order to receive any amount of credit-back, the product must list the ownership or distributorship on the package and display the handler's name and the handler's brand. The words ''California Walnuts'' must be included on the primary, face label. Such activities must also meet the requirements of paragraphs (e)(1) through (5) of this section.

(iv) If the handler is engaged in marketing promotion activities pursuant to a contract with the Foreign Agricultural Service (FAS), USDA, and/or the California Department of Food and Agriculture (CDFA), unless the Board is administering the foreign marketing program, such activities shall not be eligible for credit-back unless the handler certifies that he or she was not and will not be reimbursed by either FAS or CDFA for the amount claimed for credit-back, and has on record with the Board all claims for reimbursement made to FAS and/or the CDFA. Foreign market expenses paid by third parties as part of a handler's contract with FAS or CDFA shall not be eligible for credit-back.

(6) A handler must file claims with the Board to obtain credit-back for creditable expenditures, as follows:

(i) All claims submitted to the Board for any qualified activity must include:

(A) A description of the activity and when and where it was conducted;

(B) Copies of all invoices from suppliers or agencies;

(C) Copies of all canceled checks or other proof of payment issued by the handler in payment of these invoices; and

(D) An actual sample, picture or other physical evidence of the qualified activity.

(ii) Handlers may receive reimbursement of their paid assessments up to their pro-rata share of available dollars to be based on their percentage of the prior marketing year crop total. In all instances, handlers must remit the assessment to the Board when billed, and reimbursement will be issued to the extent of proven, qualified activities.

(iii) Checks from the Board in payment of approved credit-back claims will be mailed to handlers within 30 days of receipt of eligible claims.

(iv) Final claims for the marketing year pertaining to such qualified activities must be submitted with all required elements within 15 days after the close of the Board's marketing year.

(f) *Appeals.* If a determination is made by the Board staff that a particular marketing promotional activity is not eligible for credit-back because it does not meet the criteria specified in this section, the affected handler may request the Executive Committee review the Board staff's decision. If the affected handler disagrees with the decision of the Executive Committee, the handler may request that the Board review the Executive Committee's decision. If the handler disagrees with the decision of the Board, the handler, through the Board, may request that the Secretary review the Board's decision. Handlers have the right to request anonymity in the review of their appeal. The Secretary maintains the right to review any

decisions made by the aforementioned bodies at his or her discretion.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–06207 Filed 3–26–21; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2020–0257]

RIN 3150–AK53

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Cask System, Certificate of Compliance No. 1014, Amendment No. 15

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 Holtec International HI–STORM 100 Cask System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 15 to Certificate of Compliance No. 1014. Amendment No. 15 amends the certificate of compliance to add a new overpack and a new transfer cask, revise allowed content for storage, and make other changes to the storage system.

DATES: This direct final rule is effective June 14, 2021, unless significant adverse comments are received by April 28, 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 *http://www.regulations.gov* and search for Docket ID NRC–2018–0221. 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 Vanessa Cox, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–8342; email: *Vanessa.Cox@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–2020–0257 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 *http://www.regulations.gov* and search for Docket ID NRC–2020–0257.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://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 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–2020–0257 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 *http://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 Amendment No. 15 to Certificate of Compliance No. 1014 and does not include other aspects of the Holtec International HI–STORM 100 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 will continue to be reasonably assured. The amendments to the rule will become effective on June 14, 2021. However, if the NRC receives significant adverse comments on this direct final rule by

April 28, 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 staff 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; or

(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 May 1, 2000 (65 FR 25241), that approved the Holtec International HI–STORM 100 Cask System and added it to the list of NRC-approved cask designs in § 72.214, ''List of approved spent fuel storage casks,'' as Certificate of Compliance No. 1014.

IV. Discussion of Changes

On March 20, 2019, Holtec International submitted a request to amend Certificate of Compliance No. 1014 for the HI–STORM 100 Cask System. Holtec International supplemented its request on September 16, 2019; April 28, 2020; May 15, 2020; June 12, 2020; June 22, 2020; July 30, 2020; August 14, 2020; September 1, 2020; and September 25, 2020. Amendment No. 15 revises the certificate of compliance as follows:

1. Adds a new version of a transfer cask, HI–TRAC MS (maximum shielded), which includes an option for variable weight of the lead and water jacket and cooling passages to the bottom lid. HI–TRAC MS is to be used with all multipurpose canisters (MPCs) approved for use in Amendment Nos. 0 through 14 to the HI–STORM 100 System and the newly proposed MPC–32M, MPC–32 Version 1, and MPC–68 Version 1.

2. Includes MPC–32M for storage in the HI–STORM 100 System.

3. Includes MPC–32 Version 1 and MPC–68 Version 1 for storage in HI–STORM 100 System.

4. Adds the new overpack, HI–STORM 100S Version E, and allows it to be used with all MPCs approved for use in Amendment Nos. 0 through 14 to the HI–STORM 100 System and the newly proposed MPC–32M, MPC–32 Version 1, and MPC–68 Version 1.

5. Adds three additional boiling water reactor fuel types to the approved content for MPC–68M: 10x10I, 10x10J, and 11x11A.

6. Lowers the allowed ambient temperature from 80 °F to 70 °F for HI–STORM 100S Version E.

7. Adds HI–DRIP and dry ice jacket ancillary system as additional cooling when the MPC is loaded in the HI–TRAC transfer cask.

8. Allows for partial gadolinium credit for boiling water reactor fuel assemblies types 10x10 and 11x11 assembly classes in MPC–68M.

9. Includes allowance for canisters currently loaded under earlier amendments which had different helium leak test requirements.

10. Updates Drawing No. 7195 for the MPC–68M by removing dimensions which are not used in the safety analysis.

11. Includes dry ice jacket as optional alternate cooling method for short-term operation of the loaded HI–TRAC.

Holtec International originally proposed an additional change, which it did not pursue and the staff did not review. As Holtec International listed this change as proposed change #9 and the staff's preliminary safety evaluation report retained Holtec International's numbering, the preliminary safety evaluation report refers to changes 9, 10, and 11 as proposed changes 10, 11, and 12, respectively.

As documented in the preliminary safety evaluation report, 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. This amendment does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 15 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 determined that the amended Holtec International HI–STORM 100 Cask System 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 Holtec International HI–STORM 100 Cask System casks that meet the criteria of Amendment No. 15 to Certificate of Compliance No. 1014.

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 will revise the Holtec International HI–STORM 100 Cask System 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 Holtec International HI–STORM 100 Cask System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 15 to Certificate of Compliance No. 1014.

B. The Need for the Action

This direct final rule amends the certificate of compliance for the Holtec International HI–STORM 100 Cask System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Amendment No. 15 amends the certificate of compliance as described in Section IV, ''Discussion of Changes,'' of this document, for the use of the Holtec International HI–STORM 100 Cask System.

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 Amendment No. 15 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.

The Holtec International HI–STORM 100 Cask 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 confinement, shielding, or criticality control are maintained, 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 Amendment No. 15 would remain well within the 10 CFR part 20 limits. Therefore, the proposed certificate of compliance 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 Amendment No. 15 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into a Holtec International HI–STORM 100 Cask System in accordance with the changes described in Amendment No. 15 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 Amendment No. 15 to Certificate of Compliance No. 1014

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: Holtec International HI–STORM 100 Cask System, Certificate of Compliance No. 1014, Amendment No. 15'' 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 Holtec International. 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 (1) it 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 May 1, 2000 (65 FR 25241), the NRC issued an amendment to 10 CFR part 72 that approved the Holtec International HI–STORM 100 Cask System design by adding it to the list of NRC-approved cask designs in § 72.214.

On March 20, 2019, and as supplemented on September 16, 2019; April 28, 2020; May 15, 2020; June 12, 2020; June 22, 2020; July 30, 2020; August 14, 2020; September 1, 2020; and September 25, 2020, Holtec International submitted a request to amend the HI–STORM 100 Cask System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 15 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the Holtec International HI–STORM 100 Cask System under the changes described in Amendment No. 15 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 amends Certificate of Compliance No. 1014 for the Holtec International HI–STORM 100 Cask System, as currently listed in § 72.214. The amendment consists of the changes in Amendment No. 15 previously described, as set forth in the revised certificate of compliance and technical specifications.

Amendment No. 15 to Certificate of Compliance No. 1014 for the Holtec International HI–STORM 100 Cask System was initiated by Holtec International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 15 applies only to new casks fabricated and used under Amendment No. 15. These changes do not affect existing users of the Holtec International HI–STORM 100 Cask System, and previous amendments continue to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 15, this would be a voluntary decision on the part of existing users.

For these reasons, Amendment No. 15 to Certificate of Compliance No. 1014 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 as indicated.

Document	ADAMS accession No.
Submission of Holtec International HI–STORM 100 Cask System Certificate of Compliance No. 1014, Amendment 15 Request, dated March 20, 2019.	ML19092A192 (package).

Document	ADAMS accession No.
Submission of Response to the U.S. Nuclear Regulatory Commission Request for Supplemental Information for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated September 16, 2019.	ML19277G818 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated April 28, 2020.	ML20128J292 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Requests for Additional Information 3–1 and 3–6 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated May 15, 2020.	ML20136A475 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information 8–1 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated June 12, 2020.	ML20164A294 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information 4–9 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated June 22, 2020.	ML20174A397 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Requests for Additional Information 6–1, 6–2, 6–7, 6–8 and 11–1 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated July 30, 2020.	ML20213C679 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated August 14, 2020.	ML20229A001 (package).
Submission of Supplement to Holtec International's Request for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated September 1, 2020.	ML20245E462 (package).
Submission of Supplement to Holtec International's Request for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated September 25, 2020.	ML20269A425 (package).
User Need Memorandum for Rulemaking for the Holtec International HI–STORM 100 Cask System, Amendment No. 15 to Certificate of Compliance No. 1014, dated January 27, 2021.	ML20295A413.
Proposed CoC 1014 Amendment No. 15 CoC	ML20295A415.
Proposed CoC 1014 Amendment No. 15 Appendix A	ML20295A416.
Proposed CoC 1014 Amendment No. 15 Appendix B	ML20295A417.
Proposed CoC 1014 Amendment No. 15 Appendix C	ML20295A418.
Proposed CoC 1014 Amendment No. 15 Appendix D	ML20295A419.
Proposed CoC 1014 Amendment No. 15 Appendix A–100U	ML20295A420.
Proposed CoC 1014 Amendment No. 15 Appendix B–100U	ML20295A421.
Preliminary CoC 1014 Amendment No. 15 Safety Evaluation Report	ML20295A422.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2020–0257.

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, revise Certificate of Compliance 1014 to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009.

Amendment Number 7 Effective Date: December 28, 2009.

Amendment Number 8 Effective Date: May 2, 2012, as corrected on November 16, 2012 (ADAMS Accession No. ML12213A170); superseded by Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 8, Revision 1, Effective Date: February 16, 2016.

Amendment Number 9 Effective Date: March 11, 2014, superseded by Amendment Number 9, Revision 1, on March 21, 2016.

Amendment Number 9, Revision 1, Effective Date: March 21, 2016, as corrected (ADAMS Accession No. ML17236A451).

Amendment Number 10 Effective Date: May 31, 2016, as corrected (ADAMS Accession No. ML17236A452).

Amendment Number 11 Effective Date: February 25, 2019, as corrected (ADAMS Accession No. ML19343B024).

Amendment Number 12 Effective Date: February 25, 2019, as corrected on May 30, 2019 (ADAMS Accession No. ML19109A111); further corrected December 23, 2019 (ADAMS Accession No. ML19343A908).

Amendment Number 13 Effective Date: May 13, 2019, as corrected on May 30, 2019 (ADAMS Accession No. ML19109A122); further corrected December 23, 2019 (ADAMS Accession No. ML19343B156).

Amendment Number 14 Effective Date: December 17, 2019, as corrected (ADAMS Accession No. ML19343B287).

Amendment Number 15 Effective Date: June 14, 2021.

Safety Analysis Report (SAR) Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.

Docket Number: 72–1014.

Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100.

* * * * *

Dated this March 16, 2021.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2021–06330 Filed 3–26–21; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0944; Airspace Docket No. 20–ACE–26]

RIN 2120–AA66

Amendment of V–67, V–190, and V–429; Establishment of T–312; and Revocation of V–125 and V–335 in the Vicinity of Marion, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–67, V–190, and V–429; establishes Area Navigation (RNAV) route T–312; and removes VOR Federal airways V–125 and V–335 in the vicinity of Marion, IL. The Air Traffic Service (ATS) route modifications are necessary due to the planned decommissioning of the VOR portion of the Marion, IL, VOR/Distance Measuring Equipment (VOR/DME) navigation aid (NAVAID). With the exception of the RNAV route T–312, the Marion VOR/DME NAVAID provides navigation guidance for portions of the affected ATS routes. The VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2020–0944 in the **Federal Register** (85 FR 70532; November 5, 2020), amending VOR Federal airways V–67, V–190, and V–429; establishing RNAV route T–312; and removing VOR Federal airways V–125 and V–335 in the vicinity of Marion, IL. The proposed amendment, establishment, and revocation actions were due to the planned decommissioning of the VOR portion of the Marion, IL, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA published a NPRM correction for Docket No. FAA–2020–0944 in the **Federal Register** (85 FR 72612; November 13, 2020), correcting the airspace docket number for this action that was published in the NPRM. The correction changed all of the airspace docket number references from ''20–AGL–26'' to ''20–ACE–26.'' The correct airspace docket number for this action is 20–ACE–26 and is included in this rule.

VOR Federal airways are published in paragraph 6010(a) and RNAV T-routes are published in paragraph 6011 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by modifying VOR Federal airways V–67, V–190, and V–429; establishing RNAV route T–312; and removing VOR Federal airways V–125 and V–335. The planned decommissioning of the VOR portion of the Marion, IL, VOR/DME NAVAID has made this action necessary.

The VOR Federal airway changes are outlined below.

V–67: V–67 extends between the Choo Choo, TN, VOR/Tactical Air Navigation

(VORTAC) and the Shelbyville, TN, VOR/DME; and between the Cunningham, KY, VOR/DME and the Rochester, MN, VOR/DME. The airway segment overlying the Marion, IL, VOR/DME between the Cunningham, KY, VOR/DME and the Centralia, IL, VORTAC is removed due to the Marion VOR being decommissioned. Additionally, the airway segment between the Centralia, IL, VORTAC and the intersection of the Centralia, IL, VORTAC 010° and Vandalia, IL, VOR/DME 162° radials (CORKI fix) is also removed due to V–313 overlaying the same airway segment. The unaffected portions of the existing airway remain as charted.

V–125: V–125 extends between the intersection of the Farmington, MO, VORTAC 046° and Marion, IL, VOR/DME 282° radials (NIKEL fix) and the St Louis, MO, VORTAC. The airway is removed in its entirety.

V–190: V–190 extends between the Phoenix, AZ, VORTAC and the Pocket City, IN, VORTAC. The airway segment overlying the Marion, IL, VOR/DME between the Farmington, MO, VORTAC and the Pocket City, IN, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–335: V–335 extends between the St Louis, MO, VORTAC and the Marion, IL, VOR/DME. The airway is removed in its entirety.

V–429: V–429 extends between the Marion, IL, VOR/DME and the Bible Grove, IL, VORTAC; and between the Champaign, IL, VORTAC and the Joliet, IL, VOR/DME. The airway segment overlying the Marion, IL, VOR/DME between the Marion, IL, VOR/DME and the Bible Grove, IL, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

The new RNAV T-route is outlined below.

T–312: T–312 is a new route that extends between the Hill City, KS, VORTAC and the Pocket City, IN, VORTAC. This RNAV route mitigates the loss of the V–190 airway segment removed between the Farmington, MO, VORTAC and the Pocket City, IN, VORTAC as noted above and provides RNAV routing capability from the Hill City, KS, area eastward to the Pocket City, IN, area.

All NAVAID radials in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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 Department of Transportation (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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V–67, V–190, and V–429; establishing RNAV route T–312; and removing VOR Federal airways V–125 and V–335, due to the planned decommissioning of the VOR portion of the Marion, IL, VOR/DME NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–67 [Amended]

From Choo Choo, TN; to Shelbyville, TN. From INT Centralia, IL, 010° and Vandalia, IL, 162° radials; Vandalia; Spinner, IL; Burlington, IA; Iowa City, IA; Cedar Rapids, IA; Waterloo, IA; to Rochester, MN.

* * * * *

V–125 [Removed]

* * * * *

V–190 [Amended]

From Phoenix, AZ; St. Johns, AZ; Albuquerque, NM; Fort Union, NM; Dalhart, TX; Mitbee, OK; INT Mitbee 059° and Pioneer, OK, 280° radials; Pioneer; INT Pioneer 094° and Bartlesville, OK, 256° radials; Bartlesville; INT Bartlesville 075° and Oswego, KS, 233° radials; Oswego; INT Oswego 085° and Springfield, MO, 261° radials; Springfield; Maples, MO; to Farmington, MO.

* * * * *

V–335 [Removed]

* * * * *

V–429 [Amended]

From Champaign, IL; Roberts, IL; to Joliet, IL.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–312 HILL CITY, KS (HLC) TO POCKET CITY, IN (PXV) [NEW]

Hill City, KS (HLC)	VORTAC	(Lat. 39°15′31.49″ N, long. 100°13′33.06″ W)

MOZEE, KS	WP	(Lat. 38°50′51.20″ N, long. 099°16′35.85″ W)
Hutchinson, KS (HUT)	VOR/DME	(Lat. 37°59′48.91″ N, long. 097°56′02.94″ W)
DROOP, MO	FIX	(Lat. 37°06′09.12″ N, long. 094°26′42.39″ W)
Dogwood, MO (DGD)	VORTAC	(Lat. 37°01′24.49″ N, long. 092°52′36.92″ W)
REINS, MO	WP	(Lat. 37°33′35.84″ N, long. 090°43′00.70″ W)
Farmington, MO (FAM)	VORTAC	(Lat. 37°40′24.46″ N, long. 090°14′02.61″ W)
JEDPA, IL	WP	(Lat. 37°50′22.09″ N, long. 088°41′05.55″ W)
Pocket City, IN (PXV)	VORTAC	(Lat. 37°55′41.95″ N, long. 087°45′44.57″ W)

* * * * *

Issued in Washington, DC, on March 24, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–06390 Filed 3–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–0815; Airspace Docket No. 19–ASW–8]

RIN 2120–AA66

Revocation, Amendment, and Establishment of Multiple Air Traffic Service (ATS) Routes Due to the Decommissioning of the Greene County, MS, VOR

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule; withdrawal.

SUMMARY: This action withdraws the final rule published in the **Federal Register** on August 20, 2020, removing Jet Route J–590, amending VHF Omnidirectional Range (VOR) Federal airways V–11 and V–70, and establishing area navigation (RNAV) routes T–362 and T–365 due to the planned decommissioning of the VOR portion of the Greene County, MS, VOR/Tactical Air Navigation (VORTAC) navigation aid. Unanticipated issues affecting the completion of related VOR Minimum Operational Network (MON) Program instrument procedure amendments and the associated flight inspection activities required to adopt those amendments continue and have made this withdrawal action necessary.

DATES: Effective as of 0901 UTC, March 29, 2021, the final rule published on August 20, 2020 (85 FR 51329), delayed on October 13, 2020 (85 FR 64377), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2019–0815 (85 FR 51329; August 20, 2020) removing Jet Route J–590, amending VOR Federal airways V–11 and V–70, and establishing RNAV routes T–362 and T–365. The air traffic service (ATS) route actions were accomplished due to the planned decommissioning of the VOR portion of the Greene County, MS, VORTAC. A final rule, delay of effective date was published in the **Federal Register** for Docket No. FAA–2019–0815 (85 FR 64377; October 13, 2020) to delay the effective date to coincide with the anticipated completion of flight inspection activities associated with related VOR MON program instrument procedure amendments that were necessary to adopt the rule. Unanticipated issues affecting the completion of the related instrument procedure amendments and the associated flight inspection activities required to adopt those amendments have continued. As a result, the Greene County, MS, VOR decommissioning has been slipped to October 10, 2023.

FAA's Conclusions

The FAA has reviewed the Greene County, MS, VOR decommissioning project and determined additional time is required to complete the related instrument procedure amendments and associated flight inspection activities to ensure an efficient implementation and integration with other ongoing VOR MON program activities. Therefore, the final rule is being withdrawn.

The existing ATS routes (J–590, V–11, and V–70) addressed in the final rule remain unchanged and the new RNAV T-routes (T–362 and T–365) are not established.

The FAA will publish a new notice of proposed rulemaking action at a later date, using a new airspace docket number, to coincide with the slipped Greene County, MS, VOR decommissioning now planned for October 5, 2023.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

■ Accordingly, pursuant to the authority delegated to me, the final rule published in the **Federal Register** on August 20, 2020 (85 FR 51329), FR Doc. 2020–18253, is hereby withdrawn.

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Washington, DC, on March 24, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–06389 Filed 3–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 153 and 157

[Docket No. RM20–18–000]

Waiver of the Water Quality Certification Requirements of Section 401(a)(1) of the Clean Water Act

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: In this final rule, the Federal Energy Regulatory Commission (Commission) is amending its regulations pursuant to section 401(a)(1) of the Clean Water Act to establish a categorial reasonable period of time for a state or tribal certifying authority to act on a water quality certification request for proposed natural gas and liquified natural gas projects. The Commission is allowing certifying authorities up to one year after receipt of a request for water quality

certification, filed in connection with a requested Commission-issued section 7 certificate of public convenience and necessity or section 3 authorization under the Natural Gas Act, to grant or deny the request.

DATES: The rule will become effective June 28, 2021.

FOR FURTHER INFORMATION CONTACT:

David Swearingen (Technical Information), Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6173, *david.swearingen@ferc.gov*

Karin Larson (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8236, *karin.larson@ferc.gov*

Rachael Warden (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8717, *rachael.warden@ferc.gov*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

1. Section 401 of the Clean Water Act (CWA) [1] is a direct grant of authority to states [2] to review for compliance with appropriate federal, state, and tribal water quality requirements any discharge into a water of the United States that may result from a proposed activity that requires a federal license or permit. Section 401(a)(1) of the CWA requires that an applicant for a federal license or permit to conduct activities that may result in a discharge into the navigable waters of the United States, such as a Federal Energy Regulatory Commission (Commission) hydroelectric project license, or a Natural Gas Act (NGA) certificate of public convenience and necessity for a natural gas pipeline, or an authorization for an LNG terminal, must provide the federal permitting agency a water quality certification from the state in which the discharge originates or evidence of waiver thereof.[3] Pursuant to the CWA, if the state ''fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request,'' then certification is waived.[4]

2. The Commission's practice has been to deem the one-year waiver period to commence when the certifying agency receives the request. In 1987, the Commission promulgated subsections 4.34(b)(5)(iii) and 5.23(b)(2) [5] of its regulations governing hydropower licensing proceedings to provide that a certifying agency is deemed to have waived certification if it has not denied or granted certification by one year after the date it received a written certification request.[6] Accordingly, subsections 4.34(b)(5)(iii) and 5.23(b)(2) [7] of the Commission's regulations establish for hydroelectric projects a categorical ''reasonable period of time'' of one year.

3. While no comparable regulation exists for NGA infrastructure proceedings, the Commission's practice is to also categorically apply a one-year waiver period for water quality certification applications filed in connection to a proposed natural gas or liquefied natural gas infrastructure project application.[8]

II. Notice of Proposed Rulemaking

4. On September 9, 2020, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to codify the Commission's practice and establish a categorical waiver period of one year for water quality certification applications filed in connection with a proposed natural gas or liquefied natural gas infrastructure project application.[9] In response to the NOPR, the Commission received five comments. The Interstate Natural Gas Association of America (INGAA),[10] U.S. Department of the Interior (Interior), National Fuel Gas Supply Corporation and Empire Pipeline, Inc. (collectively,

[1] 33 U.S.C. 1341(a)(1).

[2] Indian tribes that have been approved for ''treatment as a state'' status may also have the authority under section 401 to issue water quality certifications.

[3] 33 U.S.C. 1341(a)(1).

[4] *Id.*

[5] 18 CFR 4.34(b)(5)(iii) and 5.23(b)(2). Part 4 of the Commission's regulations governs applicants using the traditional licensing process and part 5 governs applicants using the integrated license application process.

[6] *Waiver of the Water Quality Certification Requirements of Section 401(a)(1) of the Clean Water Act,* Order No. 464, FERC Stats. & Regs. ¶ 30,730 (1987) (cross-referenced at 38 FERC ¶ 61,146).

[7] 18 CFR 4.34(b)(5)(iii) and 5.23(b)(2).

[8] *Constitution Pipeline Co., LLC,* 162 FERC ¶ 61,014, at P 16 (explaining that since 1987 the Commission has consistently determined, both by regulation and in our orders on proposed projects, that the reasonable period of time for action under section 401 is one year after the date the certifying agency receives a request for certification), *reh'g denied,* 164 FERC ¶ 61,029 (2018).

[9] *Waiver of the Water Quality Certification Requirements of Section 401(a)(1) of the Clean Water Act,* 85 FR 66287, 172 FERC ¶ 61,213 (Oct. 19, 2020) (NOPR). As explained in the NOPR, part of the impetus for establishing a categorical waiver period was the executive order entitled *Promoting Energy Infrastructure and Economic Growth.* Exec. Order 13868 of Apr. 10, 2019, 84 FR 15495 (Apr. 15, 2019). Executive Order 13868 directed the Environmental Protection Agency (EPA) to update its regulations governing water quality certification under CWA section 401 and mandated that section 401 implementing agencies, such as the Commission, initiate a rulemaking to ensure their respective agencies' regulations are consistent with the EPA's final rule and with the policies set forth in the executive order. 84 FR at 15496. Executive Order 13868 was revoked on January 20, 2021, by the executive order entitled *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.* Exec. Order 13990 of Jan. 20, 2021, 86 FR 7037, 7041 (Jan. 25, 2021). Because this final rule will simply codify the Commission's existing, long-standing practice, described above, and is not premised on the EPA's final rule, this rule is not affected by E.O. 13868.

[10] INGAA is a trade association representing 26 interstate natural gas transmission pipeline systems.

National Fuel),[11] the Natural Gas Supply Association and the Center for LNG (collectively, NGSA),[12] and a group of state Attorneys General (States) [13] and California regulatory agencies (California Water Boards) [14] filed comments. The proposal set forth in the NOPR, the comments received in response to the NOPR, and the Commission's determinations are discussed below.

III. Discussion

5. The NOPR explained that the Commission believes that the benefits of setting a categorical waiver period of one year, as permitted by the CWA, best serves the public interest by avoiding uncertainty associated with open-ended and varying certification deadlines.[15] We noted that it would be administratively inefficient and a potential source of controversy to establish reasonable time periods on a case-by-case basis; that state certifying agencies may vary in terms of their procedures for reviewing requests for water quality certification; that natural gas projects before the Commission include highly complex proposals that may well take a state a significant time to review; and that studies of the discharge may at times be warranted.[16]

6. Given those factors, we found it reasonable to provide the maximum time permitted under the CWA, *i.e.,* a categorical one-year waiver period. The Commission proposed to add this categorical one-year waiver period to its regulations governing applications for authorizations under sections 3 and 7 of the NGA for liquefied natural gas and natural gas facilities in parts 153 and 157.

7. In response to the Commission's request for comments on the NOPR, the States and California Water Boards, NGSA, and INGAA filed supportive comments.[17] The States and California Water Boards agree that requests for authorization under sections 3 and 7 of the NGA tend to involve complex projects and support allowing certifying authorities the maximum time permitted under the CWA to act.[18] NGSA states that the Commission's proposed rule will provide regulatory consistency and certainty and agrees with the Commission's interpretation that the one-year period for review begins upon the certifying authority's receipt of a request for section 401 water quality certification.[19] INGAA comments that the proposed regulatory revisions are consistent with the plain reading of the CWA and agrees that it would be inefficient to set the reasonable period of time on a case-by-case basis.[20]

A. Setting Case-by-Case Periods of Time for Certifying Authorities To Act

8. National Fuel contends that the Commission need not adopt the one-year period as its categorical reasonable period of time, arguing that simple projects or those that do not raise significant concerns under the CWA could merit a shorter reasonable period of time.[21] National Fuel suggests that an applicant could assist the Commission in identifying such suitable projects.[22]

9. As the Commission has explained in orders on proposed projects, the establishment of the categorical one-year waiver period confers substantial benefits to the applicant, the certifying agency, and the Commission, including: Avoiding the difficulty of having to construe divergent state requirements, including what is a triggering request for certification, which provides certainty to all parties; refraining from intruding on states' authority to create and apply procedural regulations; and best serving the public interest by avoiding the uncertainty associated with varying and open-ended certification deadlines.[23] For those reasons, and because setting varied limits would require additional time and potentially result in controversy, we believe that whatever benefit may be conferred to a particular applicant by considering an alternate waiver period on a case-by-case basis is outweighed by the benefits described above in continuing to adhere to the one-year waiver period. We therefore decline to entertain the proposal to consider case-by-case alternate waiver periods.

B. Flexibility for Certifying Authorities To Act

10. The States and California Water Boards urge the Commission to provide certifying authorities with as much flexibility as possible in completing their section 401 reviews.[24]

11. As explained above, under the CWA, if the state ''fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request,'' then certification is waived.[25] In categorically establishing a one-year waiver period for water quality certification applications, the Commission is providing states with the maximum time allowed under the statute and therefore the broadest amount of flexibility allowed under the CWA.[26]

C. Binding Effect on Other Agencies

12. INGAA notes that other agencies ''have previously determined that a reasonable period of time should generally be less than one year'' and notes that the Commission's reasonable period of time cannot bind other lead federal permitting agencies.[27]

13. As relevant to this final rule, the Commission is the lead federal agency for authorizations under sections 3 and 7 of the NGA for liquefied natural gas and natural gas facilities. We recognize that other federal agencies may be lead agency for any number of other types of projects requiring a water quality certification under the CWA, and we are not attempting to bind any other agency with this final rule.

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[11] National Fuel Gas Supply Corporation and Empire Pipeline, Inc., are interstate pipeline companies that own and operate Commission-regulated pipeline facilities in New York and Pennsylvania.

[12] The Natural Gas Supply Association is a trade association focusing on the downstream natural gas industry, and the Center for LNG is a committee of the organization that advocates for public policies that advance the use of LNG.

[13] The Attorneys General of Maryland, Connecticut, Illinois, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia are represented in the comments.

[14] The California State Water Resources Control Board and the nine California Regional Water Quality Control Boards are represented in the comments.

[15] NOPR, 172 FERC ¶ 61,213 at P 6 (citing Order No. 464, FERC Stats. & Regs. ¶ 30,730; *Constitution Pipeline Co., LLC,* 162 FERC ¶ 61,014 at PP 16–17, 20, *reh'g denied,* 164 FERC ¶ 61,029 at P 10).

[16] *Id.*

[17] National Fuel also supports INGAA's comments and supports the Commission's codification of a certification period into its regulations. National Fuel's November 18, 2020 Comments at 1.

[18] States and California Water Boards' November 18, 2020 Comments at 2–3. The States and California Water Boards also note their continuing objections to the EPA's revisions under 40 CFR part 121, *id.* at 3–4, which are outside the scope of this NOPR and final rule.

[19] NGSA's November 18, 2020 Comments at 2–9.

[20] INGAA's November 18, 2020 Comments at 3–4.

[21] National Fuel's November 18, 2020 Comments at 2.

[22] *Id.*

[23] See *Constitution Pipeline Co., LLC,* 162 FERC ¶ 61,014 at PP 16–17, 20, *reh'g denied,* 164 FERC ¶ 61,029 at P 10.

[24] States and California Water Boards' November 18, 2020 Comments at 4.

[25] 33 U.S.C. 1341(a)(1).

[26] *See Placer Cnty. Water Agency,* 169 FERC ¶ 61,046 (2019) (explaining that section 401's plain language establishes a ''bright-line rule'' that ''the timeline for a state's action regarding a request for certification 'shall not exceed one year' after 'receipt of such request' '' (quoting *New York DEC* v. *FERC,* 884 F.3d 450, 455 (2d Cir. 2018)).

[27] INGAA's November 18, 2020 Comments at 4–5.

D. Clarification of Notification in the Case of Waiver

14. Interior requests clarification on what action the Commission would take to notify or coordinate with federal agencies if the categorical one-year waiver period set by the Commission for the certifying authority lapses.[28]

15. By statute, waiver is automatic.[29] However, a state certifying agency would be on notice that waiver occurred when the applicant files a request for authorization to proceed with construction in which the applicant must document that it has received all applicable authorizations required under federal law or evidence of waiver thereof.[30] Interested agencies may receive filings in a project docket, such as copies of water quality certification applications or requests for authorization to proceed with construction, by registering and subscribing to the project docket at *https://ferconline.ferc.gov/eSubscription.aspx.* In any case, federal agencies should take whatever steps they deem necessary to carry out their statutory mandates, regardless of state action or inaction under the CWA.

IV. Regulatory Requirements

A. Information Collection Statement

16. The Paperwork Reduction Act[31] requires each federal agency to seek and obtain the Office of Management and Budget's (OMB) approval before undertaking a collection of information (*i.e.,* reporting, recordkeeping, or public disclosure requirements) directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements contained in final rules published in the **Federal Register**.[32] This final rule does not contain any information collection requirements. The Commission is therefore not required to submit this rule to OMB for review.

B. Environmental Analysis

17. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant effect on the human environment.[33] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment, including the promulgation of rules that are clarifying, corrective, or procedural, or that do not substantially change the effect of legislation or the regulations being amended.[34] This final rule proposes to categorically establish a reasonable period of time for a certifying agency to act on a water quality certification request for natural gas and liquified natural gas projects with an application pending with the Commission. Because this final rule is procedural in nature, preparation of an Environmental Assessment or an Environmental Impact Statement is not required.

C. Regulatory Flexibility Act

18. The Regulatory Flexibility Act of 1980 (RFA)[35] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a final rule and minimize any significant economic impact on a substantial number of small entities.[36] In lieu of preparing a regulatory flexibility analysis, an agency may certify that a final rule will not have a significant economic impact on a substantial number of small entities.[37] The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[38] The SBA has established a size standard for pipelines transporting natural gas, stating that a firm is small if its annual receipts (including its affiliates) are less than $30 million.[39]

19. This final rule would apply to entities, a small number of which may be small businesses, with an application for a project pending with the Commission under section 3 or 7 of the NGA that require a water quality certification under section 401(a)(1) of the CWA. However, the final rule would have no effect on these entities, regardless of their status as a small entity or not, as the rule imposes no action or requirement on those entities. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Document Availability

20. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

21. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

22. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

E. Effective Date and Congressional Notification

23. These regulations are effective June 28, 2021. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a major rule as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[40] This rule is being submitted to the Senate, House, Government Accountability Office, and Small Business Administration.

[28] Interior's November 17, 2020 Comments at 1 (explaining that Interior is concerned it will not have adequate information about baseline water quality conditions and that certain statutes require its Bureau of Land Management to prevent degradation to waters it manages, regardless of whether a certifying authority has waived under section 401).

[29] 33 U.S.C. 1341(a)(1). If the certifying authority ''fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request,'' then certification is waived.

[30] In addition, pursuant to the EPA's regulations, 40 CFR 121.9(c), if waiver occurs, the Commission's Office of Energy Projects will issue a notice of waiver in the FERC docket for the applicable project.

[31] 44 U.S.C. 3501–3521.

[32] *See* 5 CFR 1320.12.

[33] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[34] 18 CFR 380.4(a)(2)(ii).

[35] 5 U.S.C. 601–612.

[36] *Id.* 603(c).

[37] *Id.* 605(b).

[38] 13 CFR 121.101.

[39] 13 CFR 121.201, subsection 486.

[40] 5 U.S.C. 804(2).

List of Subjects

18 CFR Part 153

Exports, Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Issued: Issued March 18, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 153 and 157, chapter I, title 18, *Code of Federal Regulations,* as follows:

PART 153—APPLICATIONS FOR AUTHORIZATION TO CONSTRUCT, OPERATE, OR MODIFY FACILITIES USED FOR THE EXPORT OR IMPORT OF NATURAL GAS

■ 1. The authority citation for part 153 continues to read as follows:

Authority: 15 U.S.C. 717b, 717o; E.O. 10485; 3 CFR, 1949–1953 Comp., p. 970, as amended by E.O. 12038, 3 CFR, 1978 Comp., p. 136, DOE Delegation Order No. 0204–112, 49 FR 6684 (February 22, 1984).

■ 2. Revise § 153.4 to read as follows:

§ 153.4 General requirements.

The procedures in §§ 157.5, 157.6, 157.8, 157.9, 157.10, 157.11, 157.12, 157.22, and 157.23 of this chapter are applicable to the applications described in this subpart.

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 3. The authority citation for part 157 is revised to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 33 U.S.C. 1341(a)(1); 42 U.S.C. 7101–7352.

■ 4. Revise § 157.22 to read as follows:

§ 157.22 Schedule for final decisions on a request for a Federal authorization.

(a) For an application under section 3 or 7 of the Natural Gas Act that requires a Federal authorization—*i.e.,* a permit, special use authorization, certification, opinion, or other approval—from a Federal agency or officer, or State agency or officer acting pursuant to delegated Federal authority, a final decision on a request for a Federal authorization is due no later than 90 days after the Commission issues its final environmental document, unless a schedule is otherwise established by Federal law.

(b) For requests for a water quality certification submitted pursuant to section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act) in connection with a project for which authorization is sought from the Commission under section 3 or 7 of the Natural Gas Act, the reasonable period of time during which the certifying agency may act on the water quality certification request is one year from the certifying agency's receipt of the request. A certifying agency is deemed to have waived the certification requirements of section 401(a)(1) of the Clean Water Act if the certifying agency has not denied or granted certification by one year after the date the certifying agency received a written request for certification.

[FR Doc. 2021–06102 Filed 3–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2021–0119]

Special Local Regulation; Dutch Shoe Marathon, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Dutch Shoe Marathon special local regulation on the waters of San Diego Bay, California on July 23, 2021. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced for the Dutch Shoe Marathon regulated area listed in item 4 in Table 1 to § 100.1101 from 11:30 a.m. to 4 p.m. on July 23, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 Table 1, Item 4 of that section for the Dutch Shoe Marathon in San Diego Bay, CA from 11:30 a.m. to 4 p.m. on July 23, 2021. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Eleventh Coast Guard District, § 100.1101, specifies the location of the regulated area for the Dutch Shoe Marathon which encompasses the waters of San Diego Bay, CA, from Shelter Island to Glorietta Bay. Under the provisions of § 100.1101, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Safety Marine Information Broadcast, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a marine information broadcast or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: March 19, 2021.

T.J. Barelli,

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

[FR Doc. 2021–06146 Filed 3–26–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0159]

Safety Zone; Coast Guard Exercise Area, Hood Canal, Washington

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones surrounding vessels

involved in Coast Guard training exercises in Hood Canal, WA, from May 24, 2021, through May 28, 2021. This enforcement is necessary to ensure the safety of the maritime public and vessels near training exercises. During the enforcement period, entry into the safety zones is prohibited, unless authorized by the Captain of the Port or their Designated Representative.

DATES: The regulations in 33 CFR 165.1339 will be enforced from 8 a.m. on May 24, 2021, through 5 p.m. on May 28, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email CWO2 William Martinez, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones around vessels involved in Coast Guard training exercises in Hood Canal, WA, set forth in 33 CFR 165.1339, from 8 a.m. on May 24, 2021, through 5 p.m. on May 28, 2021. Under the provisions of 33 CFR 165.1339, no person or vessel may enter or remain within 500 yards of any vessel involved in Coast Guard training exercises while such vessel is transiting Hood Canal, WA, between Foul Weather Bluff and the entrance to Dabob Bay, unless authorized by the Captain of the Port or their Designated Representative. In addition, the regulation requires all vessel operators seeking to enter any of the zones during the enforcement period to first obtain permission. You may seek permission by contacting the on-scene patrol commander on VHF channel 13 or 16, or the Sector Puget Sound Joint Harbor Operations Center at 206–217–6001.

You will be able to identify participating vessels as those flying the Coast Guard Ensign. The Captain of the Port may also be assisted in the enforcement of the zone by other federal, state, or local agencies. The Captain of the Port will issue a general permission to enter the safety zones if the training exercise is completed before 5 p.m. on May 28, 2021. In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via a Local Notice to Mariners.

Dated: March 24, 2021.

P.M. Hilbert,

Captain, U.S. Coast Guard, Captain of the Port Puget Sound.

[FR Doc. 2021–06467 Filed 3–26–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0152]

Annual Marine Events in the Eighth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulation for the Riverfest boat races on the Neches River in Port Neches, TX from April 30, 2021 through May 2, 2021 to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Eighth Coast Guard District identifies the regulated area for this event in Port Neches, TX. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or designated representative.

DATES: The regulations in 33 CFR 100.801 Table 3 will be enforced from 2 p.m. through 6 p.m. on April 30, 2021, and from 8:30 a.m. through 6 p.m. on May 1 and May 2, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Mr. Scott Whalen, U.S. Coast Guard; telephone 409–719–5086, email *scott.k.whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 100.801 Table 3 for the Port Neches Riverfest boat races display from 2 p.m. through 6 p.m. on April 30, 2021, and from 8:30 a.m. through 6 p.m. on May 1 and May 2, 2021. This action is being taken to provide for the safety of life on navigable waterways during this three day event. Our regulations for marine events within the Eighth Coast Guard District, § 100.801, specifies the location of the safety zone for the Riverfest boat races which encompasses a portions of the Neches River adjacent to Port Neches Park. During the enforcement period, as reflected in § 100.801 Table 3, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or designated representative.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of the enforcement periods via Local Notice to Mariners, Marine Safety Information Bulletin and Vessel Traffic Service Advisory.

Dated: March 22, 2021.

Molly. A. Wike,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Zone Port Arthur.

[FR Doc. 2021–06452 Filed 3–26–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 210322–0062]

RIN 0648–BJ26

International Fisheries; Pacific Tuna Fisheries; 2021 Commercial Fishing Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean

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

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations under the Tuna Conventions Act of 1950, as amended (TCA), to implement Inter-American Tropical Tuna Commission (IATTC) Resolution C–20–02 (''Measures for the Conservation and Management of Bluefin Tuna in the Eastern Pacific Ocean, 2021''). This rule implements annual limits on commercial catch of Pacific bluefin tuna (*Thunnus orientalis*) in the eastern Pacific Ocean (EPO) for 2021. This action is necessary to conserve Pacific bluefin tuna and for the United States to satisfy its obligations as a member of the IATTC.

DATES: The final rule is effective April 5, 2021.

ADDRESSES: Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by using the search function and entering either the title of the collection or the OMB Control Number 0648–0778.

Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2020–0163 or contact the Highly Migratory Species Branch Chief, Lyle Enriquez, 501 W Ocean Blvd., Suite

4200, Long Beach, CA 90802, or *WCR.HMS@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Celia Barroso, NMFS, 562–432–1850, *Celia.Barroso@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2021, NMFS published a proposed rule in the **Federal Register** to revise regulations at 50 CFR part 300, subpart C, for the commercial catch of Pacific bluefin tuna applicable to U.S. commercial fishing vessels in the IATTC Convention Area (Convention Area) [1] in 2021 (86 FR 279). The comment period was open for 30 days. NMFS received one public comment on the proposed rule, which is addressed later in this preamble.

This final rule is implemented under the authority of the TCA (16 U.S.C. 951 *et seq.*), which directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate regulations as necessary to implement resolutions adopted by the IATTC. The Secretary of Commerce has delegated this authority to NMFS.

Additional background information on the IATTC, the international obligations of the United States as a member of the IATTC, and the need for regulations to manage the Pacific Bluefin tuna stock was included in the proposed rule and is not repeated in this rule.

New Regulations for Commercial Pacific Bluefin Tuna for 2021

This final rule establishes catch and trip limits for U.S. commercial fishing vessels that catch Pacific bluefin tuna in the Convention Area and a landing receipt submission deadline for buyers of Pacific bluefin tuna during 2021. This final rule also implements procedures for notice of inseason actions to reduce trip limits or close the fishery. This final rule does not extend to 2021 the pre-trip notification requirement that was in effect for 2019–2020.

Annual Catch and Trip Limits

In 2021, the catch limit for the entire U.S. fleet is 425 metric tons (mt). The initial trip limit for 2021 is 20 mt. If cumulative catch reaches certain amounts depending on the quarter of the year, NMFS will impose an intermediate 15 mt trip limit, and a lower 2 mt trip limit through the end of the year, or until the annual catch limit is met and the fishery is closed, as follows:

- January–March: If cumulative catch reaches 250 mt, then the trip limit is reduced to 15 mt; and if cumulative catch reaches 325 mt, then the trip limit is reduced to 2 mt for the remainder of the year or until the annual catch limit is met and the fishery is closed.
- April–June: If cumulative catch reaches 275 mt, then the trip limit is reduced to 15 mt; and if cumulative catch reaches 350 mt, then the trip limit is reduced to 2 mt for the remainder of the year or until the annual catch limit is met and the fishery is closed.
- July–September: If cumulative catch reaches 300 mt, then the trip limit is reduced to 15 mt; and if cumulative catch reaches 375 mt, then the trip limit is reduced 2 mt for the remainder of the year or until the annual catch limit is met and the fishery is closed.
- October–December: If cumulative catch reaches 325 mt, then the trip limit is reduced to 15 mt; and if cumulative catch reaches 375 mt, then the trip limit is reduced to 2 mt for the remainder of the year or until the annual catch limit is met and the fishery is closed.

Landing Receipt Submission Deadline

Under California law and regulations, electronic landing receipts (*i.e.,* e-tickets) are required for landings in California and are required to be submitted to the California Department of Fish and Wildlife within 3 business days (see California Fish and Game Code section 8046 and 14 California Code of Regulations section 197). Under this final rule, e-tickets are required to be submitted within 24 hours if any Pacific bluefin tuna is included in a landing into California. This accelerated submission deadline is required in order to better monitor catch limits.

NMFS will estimate when the overall catch is expected to reach the thresholds to reduce the trip limit (*i.e.,* from 20 mt to 15 mt, or from 15 mt to 2 mt) or the annual limit based on available fishery information, such as landing receipts. NMFS will then make decisions on inseason actions based on those estimates. NMFS encourages owners or operators of purse seine vessels to call NMFS at 562–432–1850 in advance of landing with an estimate of how much Pacific bluefin tuna was caught on the trip.

Inseason Action Announcements

Inseason actions to reduce trip limits will be imposed by NMFS, effective upon the time and date that appears in a notice on the NMFS website (*https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status*). Inseason actions will also be announced over a United States Coast Guard (USCG) Notice to Mariners broadcast three times per day for 4 days on USCG channel 16 VHF. NMFS will then publish a notice of the reduced trip limit in the **Federal Register** as soon as practicable.

In 2021, if NMFS determines that cumulative catch is expected to be 250 mt during January–March, 275 mt during April–June, 300 mt during July–September, or 325mt during October–December (based on landing receipts or other available information), a 15-mt trip limit will be imposed by NMFS using the inseason action procedures described in the previous paragraph.

In 2021, if NMFS determines that cumulative catch is expected to be 325 mt during January–March, 350 mt during April–June, or 375 mt during July–December, a 2-mt trip limit will be imposed by NMFS using the inseason action procedures described previously.

When NMFS determines that the 2021 catch limit is expected to be reached (based on landings receipts or other available fishery information), NMFS will prohibit U.S. commercial fishing vessels from targeting, retaining, transshipping, or landing Pacific bluefin tuna captured in the Convention Area for the remainder of the calendar year (*i.e.,* fishery closure). NMFS will provide a notice on the NMFS website and the USCG will provide a Notice to Mariners three times per day for 4 days on USCG channel 16 VHF announcing that targeting, retaining, transshipping, or landing of Pacific bluefin tuna captured in the Convention Area will be prohibited on a specified effective time and date through the end of that calendar year. Upon that effective date, a commercial fishing vessel of the United States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area. However, any Pacific bluefin tuna already on board a fishing vessel on the effective date could be retained on board, transshipped, and/or landed within 14 days of the effective date, to the extent authorized by applicable laws and regulations. NMFS will then publish a notice of the fishery closure in the **Federal Register** as soon as practicable. In the event the trip limit was reduced early or the fishery was closed due to an overestimation of catch, NMFS could reverse immediately the prior inseason action to increase the trip limit or re-open the fishery after landing receipts have been received and the landed catch quantity confirmed. NMFS will announce these actions on the NMFS website and by USCG Notice to Mariners on USCG channel 16 VHF.

[1] The Convention Area is defined as waters of the EPO within the area bounded by the west coast of the Americas and by 50° N latitude, 150° W longitude, and 50° S latitude.

Catch Reporting

NMFS will provide updates on Pacific bluefin tuna catches in the Convention Area to the public via the NMFS website: *https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status.* NMFS will update the NMFS website provided the updates do not disclose confidential information (in accordance with Magnuson-Stevens Fishery Conservation and Management Act section 402(b), 16 U.S.C. 1881a(b)). These updates are intended to help participants in the U.S. commercial fishery plan for reduced trip limits and attainment of the annual limits.

Public Comment and Response

NMFS received one comment on the proposed rule. The commenter urged NMFS to consider including a pre-trip notification that was part of the 2019–2020 Pacific bluefin tuna regulations in the final rule for 2021. The commenter cited events in 2017 during which the United States exceeded its commercial Pacific bluefin tuna catch limit to argue that the management scheme proposed, without the pre-trip notification, could lead the United States to exceed its limits again. NMFS notes that the Pacific Fishery Management Council (Council), the Council's advisory bodies, and NMFS considered the events in 2017, as well as 2019–2020 management approach with the pre-trip notification. As indicated by the Council's highly migratory species advisory bodies at the November 2020 Council meeting, the pre-trip notification did not provide an accurate estimate of catch on which to base inseason action. The pre-trip notification was also considered burdensome by the fleet. As noted in the proposed rule, the pre-trip notification and associated assumptions led NMFS to take inseason action too early in 2019, requiring a reversal. Additionally, there are a few notable differences between the management scheme implemented in this final rule and the management scheme in place in 2017. First, e-tickets are required within 24 hours of a Pacific bluefin tuna landing (this requirement was first implemented in 2019). Second, procedures are in place to announce inseason actions on the NMFS website, which allows for quicker implementation of the inseason action (this requirement was also first implemented in 2019). And third, the initial trip limit of 20 mt is lower than the 25-mt trip limit in 2017. NMFS is confident that the adaptive management measures implemented in this final rule will allow for operational flexibility while maintaining catches within limits, without the pre-trip notification.

Classification

The NMFS Assistant Administrator has determined that this rule is consistent with the Tuna Conventions Act and other applicable laws.

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

Good Cause To Shorten Delay in Effective Date

Under section 553(d) of the Administrative Procedure Act, an agency must delay the effective date of regulations for 30 days after publication, unless the agency finds good cause to make the regulations effective sooner. The NOAA Assistant Administrator for Fisheries has determined that good cause exists to make this rule effective 7 days after publication.

A stock assessment completed in July 2020 by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean showed that Pacific bluefin tuna is overfished and subject to overfishing when compared to commonly used reference points; NMFS subsequently concurred with the assessment (86 FR 9910, February 17, 2021). The main objective of IATTC Resolution C–20–02 is to reduce overfishing and aid in rebuilding of the stock by setting limits on catch in the Convention Area during 2021. As a member of the IATTC, the United States is legally bound to implement that Resolution.

In recent years, Pacific bluefin tuna have remained in significant numbers in waters off of southern California, and U.S. commercial vessels currently have a greater opportunity to fish for Pacific bluefin tuna off of the U.S West Coast than in previous years. If the trip limits implemented by this rule were subject to the 30-day delay in effectiveness, and taking into account that a single trip could catch up to 75 mt (nearly four times the initial 20-mt trip limit), there is potential for a derby-style fishery that would result in exceeding the 425-mt catch limit for 2021 before this rule goes into effect. Delaying the effective date of this rule for a full 30 days after publication would therefore be contrary to the public's interest in ensuring conservation of Pacific bluefin tuna stock in the EPO. Such a delay would also be contrary to the public's interest in ensuring the United States is in compliance with its international obligations to implement the catch limits in IATTC Resolution C–20–02.

Although justification exists to make the rule effective immediately upon publication, NMFS is implementing a 7-day delay in effectiveness to provide sufficient time for currently-operating vessels to comply with the new regulations. Seven days is sufficient because vessels that target Pacific bluefin tuna in large quantities (*i.e.,* purse seine vessels) typically complete their fishing trips within 1 to 2 days. Therefore, to conserve Pacific bluefin tuna, which are overfished, and to remain in compliance with IATTC Resolution C–20–02, NMFS has determined that making these measures effective 7 days after publication in the **Federal Register** is in the public's interest. As soon as the rule is published, additional notice will be given to fishery participants through an email sent to the IATTC distribution list.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that, for purposes of the Regulatory Flexibility Act, this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No information received during the public comment period changes the action from the proposed rule or NMFS' analysis. Therefore, the initial certification published with the proposed rule—that this rule is not expected to have a significant economic impact on a substantial number of small entities—remains unchanged. As a result, a regulatory flexibility analysis was not required and none was prepared.

Paperwork Reduction Act

This rule contains revisions to a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These revisions have been submitted to OMB for approval. This rule revises the existing requirements for the collection of information 0648–0778 by removing the pre-trip notification requirement. This reduces the number of respondents and anticipated number of responses, reducing the burden by an estimated 4.55 hours. Public reporting burden for e-ticket submission is estimated to average 0 hours because the submission will already be required by the California Code of Regulations. The voluntary pre-landing notification is estimated to average 2.55 hours, including the time for reviewing

instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collection should be submitted at the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by using the search function and entering either the title of the collection or the Office of Management and Budget (OMB) Control Number 0648–0778.

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

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: March 23, 2021.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

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

Authority: 16 U.S.C. 951 *et seq.*

■ 2. In § 300.24, revise paragraph (u) to read as follows:

§ 300.24 Prohibitions.

* * * * *

(u) Use a United States commercial fishing vessel in the Convention Area to target, retain on board, transship, or land Pacific bluefin tuna in contravention of § 300.25(g)(2) through (4) and (7).

* * * * *

■ 3. In § 300.25, revise paragraph (g) to read as follows:

§ 300.25 Fisheries management.

* * * * *

(g) *Pacific bluefin tuna (Thunnus orientalis) commercial catch limits in the eastern Pacific Ocean for 2021.* The following is applicable to the U.S. commercial fishery for Pacific bluefin tuna in the Convention Area in the year 2021.

(1) All commercial fishing vessels of the United States combined may capture, retain, transship, or land no more than 425 metric tons.

(2) A 20-metric ton trip limit will be in effect until any of the following criteria are met:

(i) If NMFS anticipates cumulative catch will reach 250 metric tons during January through March, a 15-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section. If NMFS anticipates cumulative catch will reach 325 metric tons during January through March, a 2-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section.

(ii) If NMFS anticipates cumulative catch will reach 275 metric tons during April through June, a 15-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section. If NMFS anticipates cumulative catch will reach 350 metric tons during April through June, a 2-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section.

(iii) If NMFS anticipates cumulative catch will reach 300 metric tons during July through September, a 15-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section. If NMFS anticipates cumulative catch will reach 375 metric tons during July through September, a 2-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section.

(iv) If NMFS anticipates cumulative catch will reach 325 metric tons during October through December, a 15-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section. If NMFS anticipates cumulative catch will reach 375 metric tons during October through December, a 2-metric ton trip limit will be in effect upon the effective date provided in the actual notice, in accordance with paragraph (g)(6) of this section.

(3) After NMFS determines that the catch limit under paragraph (g)(1) of this section is expected to be reached, NMFS will close the fishery effective upon the date provided in the actual notice, in accordance with paragraph (g)(6) of this section. Upon the effective date in the actual notice, targeting, retaining on board, transshipping, or landing Pacific bluefin tuna captured in the Convention Area shall be prohibited as described in paragraph (g)(4) of this section.

(4) Beginning on the date provided in the actual notice of the fishing closure announced under paragraph (g)(3) of this section, a commercial fishing vessel of the United States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area through the end of the calendar year. Any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board, transshipped, and/or landed within 14 days after the effective date published in the fishing closure notice, to the extent authorized by applicable laws and regulations.

(5) If an inseason action taken under paragraph (g)(2), (3), or (4) of this section is based on overestimate of actual catch, NMFS will reverse that action in the timeliest possible manner, provided NMFS finds that reversing that action is consistent with the management objectives for the affected species. The fishery will reopen effective on the date provided in the actual notice in accordance with paragraph (g)(6) of this section.

(6) Inseason actions taken under paragraphs (g)(2), (3), (4), and (5) of this section will be by actual notice from posting on the NMFS website (*https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/pacific-bluefin-tuna-commercial-harvest-status*) and a United States Coast Guard Notice to Mariners. The Notice to Mariners will be broadcast three times daily for 4 days. This action will also be published in the **Federal Register** as soon as practicable. Inseason actions will be effective from the time specified in the actual notice of the action (*i.e.,* website posting and United States Coast Guard Notice to Mariners), or at the time the inseason action published in the **Federal Register** is effective, whichever comes first.

(7) If landing Pacific bluefin tuna into the State of California, fish landing receipts must be submitted to the California Department of Fish and Wildlife in accordance with the requirements of applicable State law and regulations, with the exception that

the submission must occur within 24 hours of landing.

[FR Doc. 2021–06333 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 210324–0064]

RIN 0648–BK33

Extension of Emergency Measures To Address Fishery Observer Coverage During the Coronavirus Pandemic

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

ACTION: Temporary rule; interim final action; request for comments.

SUMMARY: NMFS promulgates this interim final rule to revise the termination date of an emergency action that provides authority to waive observer coverage requirements. NMFS is taking this action to address public health concerns that relate to the ongoing Coronavirus (COVID–19) pandemic. The intended effect of the interim final rule is to provide NMFS with continued authority to waive observer coverage requirements when such action is necessary because of the COVID–19 public health emergency and mitigation measures taken in response to it. This interim final rule will also provide NMFS with continued authority to waive some training or other program requirements to ensure that as many observers as possible are available for deployment while ensuring their safety and health and that of observer program staff who train observers.

DATES: Effective March 27, 2021, through March 26, 2022. Comments must be received by May 28, 2021.

ADDRESSES: You may submit comments on this document by using an electronic submission via the Federal e-Rulemaking portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2021–0011'' in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Wendy Morrison at 301–427–8564.

SUPPLEMENTARY INFORMATION:

Background

NMFS promulgated emergency observer waiver rulemaking in response to the COVID–19 pandemic on March 27, 2020 (85 FR 17285). That initial emergency action, hereafter referred to as the Observer Waiver Rule, was taken under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) emergency rulemaking authority at section 305(c)(3), 16 U.S.C. 1855(c)(3), and was effective for 180 days. The Observer Waiver Rule authorized waiver of observer coverage and training and some other program requirements. On September 21, 2020, due to the ongoing pandemic, NMFS extended the effectiveness of the Observer Waiver Rule for 186 days, or until March 26, 2021, as allowed under MSA section 305(c)(3)(B). 85 FR 59199. In promulgating the initial Observer Waiver Rule and extension, NMFS stated that if there was a need to continue waiver measures beyond March 26, 2021, it would further extend the Observer Waiver Rule. MSA section 305(c)(3)(C) authorizes NMFS to promulgate an emergency regulation that responds to a public health emergency. In this situation, the emergency regulation may remain in effect until the circumstances that created the emergency no longer exist, provided that the public has an opportunity to comment after the regulation is published and that the Secretary of Health and Human Services concurs with the action. 16 U.S.C. 1855(c)(3)(C). Given the ongoing COVID–19 pandemic concerns and issues (expected to continue through at least mid-year 2021), the continued national and local declarations of emergency, and guidance from the Centers for Disease Control and Prevention, NMFS has determined that an extension of the Observer Waiver Rule is needed.

Therefore, this interim final rule revises the termination date of the Observer Waiver Rule to March 26, 2022, or until the Secretary of Health and Human Services (HHS) determines that the COVID–19 Pandemic is no longer a public health emergency, whichever is earlier. In the event of the latter case, NMFS will publish a notice of termination in the **Federal Register** for the Observer Waiver Rule as quickly as practicable following the declaration by the Secretary of HHS. 16 U.S.C. 1855(c)(3)(D). If such notice of termination were issued, NMFS does not intend to take additional public comment, as public comment on this rule will have been considered. In addition, if a notice of termination were issued, NMFS intends to delay the effectiveness of the termination, providing NMFS the authority to waive observer coverage for an additional 30 days. The Secretary of HHS, by memo dated February 25, 2021, concurs with the extension of the Observer Waiver Rule. NMFS solicits public comment on this interim final rule through May 28, 2021, and will take into consideration any comments received as it evaluates whether any modifications to this interim final rule are needed.

This interim final rule only revises the termination date of the Observer Waiver Rule and does not change the waiver criteria. See the Extension of Emergency Management Measures section below for the criteria. For further background, see the Observer Waiver Rule, 85 FR 17285 (March 27, 2020), and extension, 85 FR 59199 (September 21, 2020), which includes responses to comments on the initial rule. This interim final rule will continue to advance the protection of and to promote public health and the safety of fishermen, observers, and other parties who may come in contact with those persons. NMFS will continue to consider applicable law and international obligations when making decisions about observer coverage waivers.

In issuing such waivers to date, NMFS has carefully monitored the status of the fishery and/or protected species that were being observed or monitored to ensure that the relevant conservation and management goals are still being met. NMFS is committed to maintaining the sustainable use of our marine resources, protecting endangered species, marine mammals, and seabirds, and providing seafood to the country during the ongoing COVID–19 pandemic. NMFS has and will continue to consider applicable law (*e.g.,* the Endangered Species Act and other statutes noted in the Classification section below) and international obligations when prioritizing observer coverage and making decisions about observer coverage waivers. NMFS has

narrowly tailored waivers in terms of duration and scope. Thus, even where coverage has been waived, observers are being deployed and data are being collected on a subset of trips in these fisheries. The observer data collected on these trips can be compared with data collected in previous years to determine similarities and differences in catch between current and previous years and monitor the conservation and management goals of the fisheries. In addition, where possible, regional observer programs are making adjustments to increase observer deployments so that coverage goals are achieved on a seasonal basis.

With this interim final rule, NMFS will continue to carefully monitor the status of the fishery and/or protected species that are being observed or monitored to ensure that the relevant conservation and management goals are still being met under any reduced observer coverages. If needed to address any significant issues or concerns, or if NMFS determines that a waiver cannot be issued (*e.g.,* observer coverage is required due to other applicable law or international obligations), NMFS will consider whether additional, separate actions (*e.g.,* fishery closures or additional monitoring) should be implemented per existing regulations or may issue emergency regulations, as necessary and appropriate. As a result, no ecological impacts are expected by this extension of the Observer Waiver Rule beyond any caused by the COVID–19 pandemic itself.

Extension of Emergency Management Measures

Under this interim final rule, NMFS will continue to have authority to waive observer coverage requirements if:

- Placing an observer conflicts with travel restrictions or other requirements addressing COVID–19 related concerns issued by local, state, or national governments, or the private companies that deploy observers pursuant to NMFS regulations; or
- No qualified observer(s) are available for placement due to health, safety, or training issues related to COVID–19.

If either condition is satisfied, NMFS may waive observer coverage requirements for an individual trip or vessel, an entire fishery or fleet, or all fisheries administered under a NMFS Regional Office (*see* 50 CFR 600.10 (defining Region) and *https://www.fisheries.noaa.gov/regions*) or NMFS Headquarters Office. In the September 2020 rule extension, NMFS made a minor change to the first waiver criterion and provided clarifications on issues raised by public comments on NMFS' application of the criteria. This interim final rule retains the criteria as revised, and approaches as clarified, in the September 2020 extension. As noted in the September 21, 2020 extension to the original Observer Waiver Rule, NMFS restates its policy that, under the first criteria, it will consider a trip waiver if the observer providers cannot meet the risk mitigation protocols imposed by a state on commercial fishing crew or by the vessel or vessel company on its crew. Based on its regulatory and contract oversight authority, NMFS intends to ensure that observer providers and their observers and monitors are following the same risk mitigation protocols that fishermen are following.

NMFS will issue waivers as narrowly as possible, in terms of duration and scope, to meet the particular circumstances. Such waivers would be communicated in writing or electronic format. If, at any time, the circumstances that prompted the need for a waiver change to the extent that the waiver is no longer warranted, NMFS will communicate in writing or electronic format to withdraw the waiver. In making decisions regarding observer coverage waivers, NMFS will gather information, if needed, from relevant observer service providers and other parties involved with observer coverage before issuing the waivers.

This interim final rule will allow NMFS to waive certain observer training and other observer program requirements (*e.g.,* requiring a minimum class size, experience needed for a specific endorsement level, or requiring that observers transfer to other vessels between trips). Before doing so, NMFS will ensure that any such waiver does not remove requirements that ensure the health and safety of the observer or observer trainer.

Classification

This action is issued pursuant to section 305(c)(3)(C) of the MSA, 16 U.S.C. 1855(c), and pursuant to the rulemaking authority under other statutes that apply to Federal fisheries management or that implement international agreements. Such statutes include, but are not limited to, the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*), South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*), Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), Antigua Convention Implementing Act (16 U.S.C. 951 *et seq.*), High Seas Fishing Compliance Act (16 U.S.C. 5501 *et seq.*), and Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*). This interim final rule is intended to authorize NMFS to waive any observer requirement implemented under any of those authorities, consistent with other applicable law. Consistent with MSA section 305(c)(3)(C), this action will remain in effect as to all such requirements until March 26, 2022, or until the Secretary of HHS determines that the COVID–19 pandemic is no longer a public health emergency, whichever is earlier. If this interim final rule is no longer necessary under the latter condition, NMFS will publish a notice of termination in the **Federal Register** pursuant to MSA section 305(c)(3)(D).

Pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to waive the otherwise applicable requirements for both notice-and-comment rulemaking and a 30-day delay in effectiveness for this interim final rule, which simply extends the effectiveness of the Observer Waiver Rule. The COVID–19 pandemic is unpredictable. Complications from a localized COVID–19 outbreak, or increases in community spread of virus mutations, combined with travel restrictions and other safety threats may unexpectedly create circumstances where it is logistically impossible to deploy observers or conduct elements of observer programs such as training that must be held in person. Fishermen are prohibited from fishing without required observer coverage, and certain observer deployments cannot proceed unless certain training requirements are meet. Therefore, NMFS must have continued authority to waive observer coverage and other observer program requirements such as training. Given the unpredictable circumstances that could arise from the COVID–19 pandemic, any delay in this interim final rule could result in adverse economic impacts to fishers and impact their ability to supply seafood for the nation. Additionally, delaying this action could cause health and safety risks posed by continuing observer deployments and other related requirements during a COVID–19 outbreak.

NMFS solicited public comment when it promulgated the initial Observer Waiver Rule and responded to comments in the rule extension. For this interim final rule, NMFS also solicits public comment and will take those comments into consideration as it evaluates whether any modifications to this rule are needed.

For the above reasons, NMFS finds it impracticable and contrary to the public interest to provide prior opportunity to

comment on this interim final rule, and to delay its date of effectiveness.

OMB has determined that this interim final rule is significant under E.O. 12866 section 3(f). As such, NMFS has prepared a Regulatory Impact Analysis pursuant to E.O. 12866 section 6(a)(3)(B) and, given the COVID–19 public health emergency, section 6(a)(3)(D). The Regulatory Impact Analysis is available in the *regulations.gov* docket. This interim final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

This interim final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Dated: March 24, 2021.

Samuel D. Rauch, III,

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

[FR Doc. 2021–06458 Filed 3–25–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 58
Monday, March 29, 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–2020–0257]

RIN 3150–AK53

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Cask System, Certificate of Compliance No. 1014, Amendment No. 15

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Holtec International HI–STORM 100 Cask System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 15 to Certificate of Compliance No. 1014. Amendment No. 15 amends the certificate of compliance to add a new overpack and a new transfer cask, revise allowed content for storage, and make other changes to the storage system.

DATES: Submit comments by April 28, 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 *http://www.regulations.gov* and search for Docket ID NRC–2020–0257. 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 Vanessa Cox, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–8342; email: *Vanessa.Cox@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

A. Obtaining Information

Please refer to Docket ID NRC–2020–0257 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 *http://www.regulations.gov* and search for Docket ID NRC–2020–0257.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://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–2020–0257 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 *http://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, 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 14, 2021. However, if the NRC receives any significant adverse comment by April 28, 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 May 1, 2000 (65 FR 25241), that approved the Holtec International HI–STORM 100 Cask System and added it to the list of NRC-approved cask designs in § 72.214, ''List of approved spent fuel storage casks,'' as Certificate of Compliance No. 1014.

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 as indicated.

Document	ADAMS accession No.
Submission of Holtec International HI–STORM 100 Cask System Certificate of Compliance No. 1014, Amendment 15 request, dated March 20, 2019.	ML19092A192 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission Request for Supplemental Information for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated September 16, 2019.	ML19277G818 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated April 28, 2020.	ML20128J292 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Requests for Additional Information 3–1 and 3–6 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated May 15, 2020.	ML20136A475 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information 8–1 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated June 12, 2020.	ML20164A294 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information 4–9 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated June 22, 2020.	ML20174A397 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Requests for Additional Information 6–1, 6–2, 6–7, 6–8 and 11–1 for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated July 30, 2020.	ML20213C679 (package).
Submission of Response to the U.S. Nuclear Regulatory Commission for Request for Additional Information for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated August 14, 2020.	ML20229A001 (package).
Submission of Supplement to Holtec International's Request for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated September 1, 2020.	ML20245E462 (package).
Submission of Supplement to Holtec International's Request for Amendment 15 to Certificate of Compliance No. 1014 for Holtec International HI–STORM 100 Cask System, dated September 25, 2020.	ML20269A425 (package).
User Need Memorandum for Rulemaking for the Holtec International HI–STORM 100 Cask System, Amendment No. 15 to Certificate of Compliance No. 1014, dated January 27, 2021.	ML20295A413.
Proposed CoC 1014 Amendment No. 15 CoC	ML20295A415.
Proposed CoC 1014 Amendment No. 15 Appendix A	ML20295A416.
Proposed CoC 1014 Amendment No. 15 Appendix B	ML20295A417.
Proposed CoC 1014 Amendment No. 15 Appendix C	ML20295A418.
Proposed CoC 1014 Amendment No. 15 Appendix D	ML20295A419.
Proposed CoC 1014 Amendment No. 15 Appendix A–100U	ML20295A420.

Document	ADAMS accession No.
Proposed CoC 1014 Amendment No. 15 Appendix B–100U	ML20295A421.
Preliminary CoC 1014 Amendment No. 15 Safety Evaluation Report	ML20295A422.

The NRC may post materials related to this document, including public comments, on the Federal Rulemaking website at *http://www.regulations.gov* under Docket ID NRC–2020–0257.

Dated March 16, 2021.

For the Nuclear Regulatory Commission.

Margaret M. Doane,

Executive Director for Operations.

[FR Doc. 2021–06329 Filed 3–26–21; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

15 CFR Part 7

[Docket No. 210325–0068]

RIN 0605–AA60

Securing the Information and Communications Technology and Services Supply Chain: Licensing Procedures

AGENCY: U.S. Department of Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On January 19, 2021, the Department of Commerce (the Department) published a interim final rulemaking, ''Securing the Information and Communications Technology and Services Supply Chain,'' which became effective on March 22, 2021. It allows the Secretary of Commerce, in accordance with Executive Order 13873, to prohibit certain information and communications technology and services transactions (ICTS Transactions) to address national security threats. In the January 19 notice, the Department stated it would implement a licensing process by May 19th for entities seeking pre-approval before engaging in or continuing to engage in ICTS Transactions. The Department is now seeking public input on such a licensing or other pre-clearance process.

DATES: Comments must be received by April 28, 2021.

ADDRESSES: All comments must be submitted by one of the following methods:

- *By the Federal eRulemaking Portal: http://www.regulations.gov* at docket number [DOC–2021–DOC–2021–0004].
- *By email directly to: ICTsupplychain@doc.gov.* Include ''RIN 0605–AA60: ANPRM'' in the subject line.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. For those seeking to submit confidential business information (CBI), please clearly mark such submissions as CBI and submit by email or via the Federal eRulemaking Portal, as instructed above. Each CBI submission must also contain a summary of the CBI, clearly marked as public, in sufficient detail to permit a reasonable understanding of the substance of the information for public consumption. Such summary information will be posted on *regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joe Bartels, U.S. Department of Commerce, telephone: (202) 482–1595. For media inquiries: Brittany Caplin, Deputy Director of Public Affairs and Press Secretary, U.S. Department of Commerce, telephone: (202) 482–4883, email *PublicAffairs@doc.gov.*

SUPPLEMENTARY INFORMATION: On November 27, 2019, the Department of Commerce (the Department) published a notice of proposed rulemaking (84 FR 65316) seeking public comment on implementing Executive Order 13873 of May 15, 2019, ''Securing the Information and Communications Technology and Services Supply Chain'' (84 FR 22689). On January 19, 2021, the Department published a interim final rulemaking that is effective as of March 22, 2021 (86 FR 4909). In this document, in response to requests from various commenters, including multiple trade associations, to provide a pre-clearance process or similar program that would reduce uncertainty for entities seeking to engage in ICTS Transactions, the Department stated it would implement a licensing process by May 19, 2021 (86 FR 4909, at 4911).

However, it has become apparent additional public input is needed, and the Department does not expect to have a licensing or other pre-clearance process in place by May 19, 2021. With this ANPRM, the Department is seeking input into several aspects of a potential voluntary licensing or pre-clearance process. The Department will consider the public input as it drafts a Notice of Proposed Rulemaking.

Please note this ANPRM does not alter the effective date of the interim final rule nor does it reopen or extend the deadline for submitting comments on the interim final rule. This ANPRM is solely seeking public input on the forthcoming licensing procedures.

In responding to this ANPRM, please refer to the definitions and the explaination of those definitions used in the interim rule. For ease of reference, some of the more important terms are re-stated below:

ICTS Transaction means any acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service, including ongoing activities, such as managed services, data transmission, software updates, repairs, or the platforming or data hosting of applications for consumer download. An ICTS Transaction includes any other transaction, the structure of which is designed or intended to evade or circumvent the application of the Executive Order. The term ICTS Transaction includes a class of ICTS Transactions.

Note that ICTS Transactions include provision of services, and the term includes any and all transactions that occurred on or after January 19, 2021, by any person owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. Providing services, such as software updates, to U.S. persons may provide a foreign adversary an opportunity to engage in the types of activities that may threaten U.S. national security.

Party or parties to a transaction means a person engaged in an ICTS Transaction, including the person acquiring the ICTS and the person from whom the ICTS is acquired. Party or parties to a transaction include entities designed, or otherwise used with the intention, to evade or circumvent application of the Executive Order. For purposes of this rulemaking, this definition does not include common carriers, except to the extent that a common carrier knew or should have known (as the term ''knowledge'' is defined in 15 CFR 772.1) that it was providing transportation services of ICTS to one or more of the parties to a transaction that has been prohibited in a final written determination made by the Secretary or, if permitted subject to mitigation measures, in violation of such mitigation measures.

Person means an individual or entity.

Person owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary means any person, wherever located, who acts as an agent, representative, or employee, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign adversary or of a person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part by a foreign adversary; any person, wherever located, who is a citizen or resident of a nation-state controlled by a foreign adversary; any corporation, partnership, association, or other organization organized under the laws of a nation-state controlled by a foreign adversary; and any corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by a foreign adversary.

While the Department welcomes comments and views on all aspects of the future licensing process, the Department is particularly interested in obtaining information on the following questions:

- Multiple commenters pointed to notifications to the Committee on Foreign Investment in the United States (CFIUS) regarding certain investments in U.S. businesses and real estate transactions in the United States by foreign persons, as well as voluntary disclosures to the Bureau of Industry and Security (BIS) regarding potential violations of U.S. export controls, as potential models for creating a process that would provide entities seeking to engage in an ICTS Transaction greater certainty that the transaction will not be prohibited. Given the differences between the type of transactions subject to CFIUS jurisdiction, those governed by BIS's export control regime, and ICTS Transactions governed by the interim final rule, are the CFIUS and BIS processes useful models for an ICTS Transaction licensing or pre-clearance process? If so, are there specific factors or aspects of the CFIUS and BIS processes that Commerce should consider?
- Pre-clearance or licensing processes can take a range of forms from, for example, a regime that would require authorization prior to engaging in an ICTS Transaction, to one that allow entities to seek additional certainty from the Department that a potential ICTS Transaction would not be prohibitedby the process under the interim final rule. What are the benefits and disadvantages of these various approaches? Which would be most appropriate given the nature of ICTS transactions? How can these approaches be implemented to ensure that national security is protected?
- What considerations could be provided to small entities in the licensing or other pre-clearance process that would not impair the goal of protecting the national security?
- Are there categories or types of ICTS Transactions described in 15 CFR 7.3 or within the interim final rule that should or should not be considered for a license or pre-clearance? Are there categories or types of ICTS Transactions described in 15 CFR 7.3 or within the interim final rule that the Department should prioritize for licensing or pre-clearance? Should the licensing or pre-clearance process be structured differently for distinct categories or types of ICTS Transactions?
- Should a license or pre-clearance apply to more than a single ICTS Transaction? For example, should the Department consider issuing a license that applies to multiple ICTS Transactions from a single entity that is engaged in a long-term contract for ICTS? If so, what factors should the Department evaluate in determining the appropriateness of such a license or series of licenses?
- What categories of information should the Department require or not require, *e.g.* technical, security, operational information?
- While the Department understands that business decisions must often be made within tight timeframes, the Department may not be able to determine whether a particular ICTS Transaction qualifies for a license or pre-clearance without detailed information and analysis. Considering this tension, should the Department issue decisions on a shorter timeframe if that could result in fewer licenses or pre-clearances being granted, or would the inconvenience of a longer timeframe for review be outweighed by the potential for a greater number of licenses or pre-clearances being issued?
- How should the potential for mitigation of an ICTS Transaction be assessed in considering whether to grant a license or pre-clearance for that transaction?
- If a license or pre-clearance request is approved, but the subject ICTS Transaction is subsequently modified, what process should be enacted to avoid invalidation of the license or other form of pre-clearance?
- Should holders of an ICTS Transaction license or other form or pre-clearance have the opportunity to renew them rather than reapplying? If so, what factors should be considered in a renewal assessment? What would be the appropriate length of time between renewals? How should any renewal process be structured?

Wynn Coggins,

Acting Deputy Secretary.

[FR Doc. 2021–06529 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–20–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–55; RM–11878; DA 21–162; FR ID 17506]

Television Broadcasting Services St. George, Utah

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking (Petition) filed by KUTV Licensee, LLC, (Licensee), licensee of KMYU, channel 9, St. George, Utah (KMYU or Station), requesting the substitution of channel 21 for channel 9 at St. George in the DTV Table of Allotments. Licensee states that the proposed channel change from channel 9 to channel 21 would result a substantial increase in signal receivability for KMYU's core viewers and enable viewers to receive the Station's signal with a significantly smaller antenna. Licensee maintains that KMYU, as a VHF channel station, has had a long history of dealing with severe reception problems exacerbated by the analog to digital conversion. The proposed migration of KMYU from channel 9 to channel 21, Licensee contends, will result in the delivery of enhanced signal levels to a large percentage of the Station's population without any predicted loss of coverage. Further, Licensee maintains that the change will result in an predicted increase of more than 8,000 persons in the Station's overall population. Licensee concludes by saying that the public interest would be best served by promptly granting its Petition with the specifications set forth in therein so that St. George-area viewers may benefit from substantially improved over-the-air broadcast television service as soon as possible.

DATES: Comments must be filed on or before April 28, 2021 and reply comments on or before May 13, 2021.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the

FCC, interested parties should serve counsel for petitioner as follows: Paul A. Cicelski, Esq., Lerman Senter PLLC, 2001 L Street NW, Suite 400, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Media Bureau, at (202) 418–2324; or *Shaun.Maher@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 21–53; RM–11878; DA 21–162, adopted February 12, 2021, and released February 12, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See §§ 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(i) amend the Post-Transition Table of DTV Allotments under Utah by revising the entry for St. George to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

Community	Channel No.
* * * * *	
Utah	
* * * * *	
St. George	21
* * * * *	

[FR Doc. 2021–06396 Filed 3–26–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Child Restraint Systems; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking from Jewkes Biomechanics (Jewkes) requesting that NHTSA amend Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child restraint systems,'' to remove a requirement that child restraint systems (CRSs) must meet performance requirements without use of a top tether, or exclude from that requirement a new kind of CRS that the petitioner would like to develop called a ''hybrid CRS.'' Alternatively, the petitioner requests that the definition of a ''harness'' in FMVSS No. 213 be amended to include its hybrid CRS. NHTSA is denying the petition because the requested amendments would unreasonably reduce the child occupant protection provided by FMVSS No. 213.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Cristina Echemendia, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–6345. For legal issues, you may contact Deirdre Fujita, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–5246.

SUPPLEMENTARY INFORMATION:

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I. Background

FMVSS No. 213 specifies performance and other requirements for child restraint systems to reduce the number of children killed or injured in motor vehicle crashes.[1] Under FMVSS No. 213, ''child restraint systems'' are devices, except vehicle lap or lap/shoulder belts, designed for use in a motor vehicle to restrain, seat, or position children weighing 36 kilograms (80 pounds) or less. S5(b) requires each child restraint system to meet the requirements of the standard when tested in accordance with S6.1 and S5. Among other tests is a dynamic frontal sled test involving a 48-kilometer per hour (km/h) (30-mile per hour (mph)) velocity change. NHTSA dynamically tests CRSs with anthropomorphic test devices (test dummies) of sizes representing the children for whom the CRS is designed.

S6.1 specifies the conditions and procedures for the dynamic sled test. Under S6.1.2(a)(1)(B), NHTSA may test a CRS without a top tether attached.[2]

[1] 49 CFR 571.213, ''Child restraint systems.'' All references to subparagraphs in this denial of the petition for rulemaking are to FMVSS No. 213 unless otherwise noted. All references in this document to the requirements in FMVSS No. 213 are to the requirements for ''add-on'' (portable) CRSs (as opposed to ''built-in'' CRSs). (*See* S4 of 49 CFR 571.213 for definitions of these terms.) NHTSA published a notice of proposed rulemaking (NPRM) on November 2, 2020 proposing updates to FMVSS No. 213, including updating the standard seat assembly used to test CRSs in NHTSA's compliance tests (85 FR 69388).

[2] In this document, the terms ''tether,'' ''top tether'' and the like also include other

One of the dynamic performance requirements for forward-facing CRSs tested in the untethered condition is an 813 mm (32 inch) limit on head excursion. Head excursion refers to the distance the test dummy's head moves forward during the dynamic test (S5.1.3.1(a)(1)).[3] The limit on head excursion reduces the likelihood of a child head's striking harmful objects or surfaces in a crash. The CRSs must also meet other dynamic performance requirements without use of a tether, including limits on the head and chest acceleration of the test dummies during the sled test (S5.1.2.1). This document refers to the requirement that CRSs meet FMVSS No. 213 without using the tether as the ''untethered test requirement.''

The purpose of the untethered test requirement is to ensure that CRSs provide at least a minimum level of adequate protection when the tether strap is not attached. When a tether strap is properly attached, a forward-facing child restraint equipped with a tether strap will generally offer the best protection for child occupants. However, survey results have continuously shown that tether straps are not widely used by caregivers to secure CRSs in vehicles. Recent studies from NHTSA's National Child Restraint Use Special Study (NCRUSS) [4] and the Insurance Institute for Highway Safety (IIHS) [5] show that tether use is low in the field, as it has been since the initial implementation of FMVSS No. 213. NCRUSS found that the overall tether use in forward-facing CRSs with internal harnesses was 42 percent. Tether use was 71 percent when the CRS was attached with the lower anchorages of a child restraint anchorage system and 31 percent when the CRS was attached with seat belts. IIHS researchers analyzed data from 479 vehicle observations and found that the top tether was used only 56 percent of the time.

To address this problem, FMVSS No. 213 requires forward-facing CRSs, with certain limited exceptions, to meet the standard's minimum performance requirements without attachment of a tether. In that way, children will be afforded at least a minimum level of adequate occupant protection even if the caregiver does not attach the tether. That untethered test requirement applies to the restraint that Jewkes seeks to develop.

II. Petition for Rulemaking

Jewkes submitted a petition for rulemaking, dated February 21, 2017, requesting NHTSA to either: (a) Remove the untethered test requirement; or (b) classify a child restraint system the petitioner would like to develop as a new type of CRS (''hybrid CRS''), and exclude these restraints from the standard's untethered test requirement. The petitioner states that the untethered test requirement ''automatically disqualifies use of so-called 'hybrid' '' child restraints. NHTSA understands the statement to mean that the child restraints cannot meet the untethered test requirement of FMVSS No. 213.

Jewkes describes a hybrid CRS as ''a CRS with a flexible connection between car-seat bottom and back . . . with a five-point harness.'' Jewkes provided a schematic drawing of ''a type of hybrid CRS,'' which NHTSA has reproduced in Figure 1 below.[6] The petitioner suggests FMVSS No. 213 define a hybrid CRS as ''an add-on forward facing CRS with five-point harness using a combination of flexible materials connecting a rigid seat-bottom to a seat-back structure.''

supplementary features that must be attached by the consumer separately from the lower anchorages of a child restraint anchorage system or seat belt to install the CRS to the vehicle seat.

[3] In addition, S5.1.3.1(a)(1) also requires CRSs to provide enhanced head protection by way of a 720 mm (28 inch) head excursion limit. This requirement may be met through attachment of a tether strap.

[4] National Child Restraint Use Special Study, DOT HS 811 679, *https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812142.* NCRUSS is a large-scale nationally-representative survey that involves both an inspection of the child passenger's restraint system by a certified child passenger safety technician and a detailed interview of the driver. Between June and August 2011, the survey collected information on drivers and child passengers ages 0–8 years.

[5] Eichelberger, A. H., Decina, L.E., Jermakian, J. S., McCartt, A. T., ''Use of top tether with forward facing child restraints: Observations and driver interviews,'' Insurance Institute for Highway Safety, April 2013. IIHS surveyed collected data at roughly 50 suburban sites near Fredericksburg, VA., Philadelphia, PA, Seattle, WA, and Washington, DC Shopping centers, recreation facilities, child-care centers, car-seat checkpoints and health-care facilities were among the locations.

[6] To view a copy of the petition, see *https://www.regulations.gov/document?D=NHTSA-2017-0007-0004.* The schematic drawing in the petition was not clear, so NHTSA enhanced the outlines so the schematic could be published in this document. It appears the schematic is showing a hybrid CRS positioned on a vehicle seat with a head restraint.

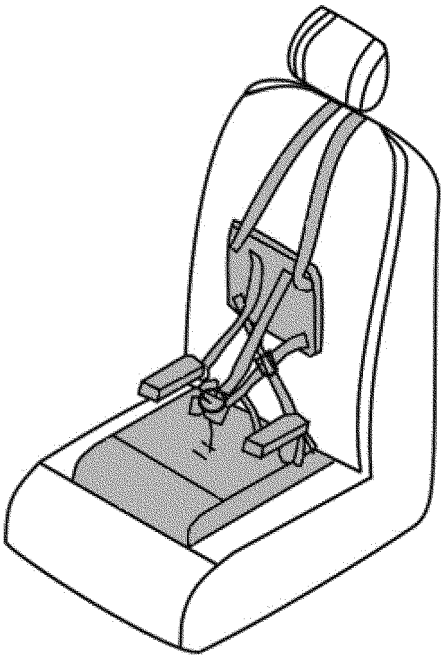

Figure 1. Schematic drawing provided by the petitioner of a "hybrid CRS" on a vehicle seat (drawing enhanced by NHTSA to improve clarity)

Alternatively, Jewkes suggests that NHTSA amend the existing ''harness'' definition in FMVSS No. 213 so that the definition includes child restraints such as the petitioner's hybrid CRS.[7] The aim of this approach is to exclude the subject CRSs from the untethered test requirement on the basis that they are ''harnesses,'' as currently, under FMVSS No. 213, harnesses are not subject to the requirement.

The petitioner claims that there is no need for hybrid CRSs to be subject to an untethered test requirement because caregivers would know to attach the tether. It did not provide data supporting this assertion. Jewkes notes its belief that, due to the untethered test requirement, child restraints must have a ''rigid junction'' between the child restraint's seat bottom and the CRS seat back. The petitioner states, without providing supporting data, that CRSs with a rigid junction between the CRS bottom and back—

> appear to average users to function equally well with and without top-tether. As such, users do not recognize the necessity for top-tether use to increase their child's safety and, thus, fail to utilize the top tether. By contrast, the need to use the top tether with the hybrid CRS is readily apparent, because the shoulder harness is not accessible without it. As such, misuse of the car seat by omitting the top tether–the primary reason FMVSS No. 2013 [sic] requires compliance without top tether use—is negligible in the case of the hybrid CRS. Because the hybrid CRS does not necessitate concern for use without top-tether, it should be exempted from FMVSS No. 213 as petitioned.

Moreover, the petitioner asserts that its hybrid CRS is a ''lighter species of the five-point restraint'' and a ''remedy'' to ''several drawbacks'' caused by the untethered test requirement. Jewkes states that, due to the untethered test requirement, the ''rigid junction'' between a CRS's seat bottom and seat back creates bulk which ''can compromise child safety in several ways.'' The petitioner lists what it believes to be five advantages its devices have over CRSs with ''rigid junctions.'' NHTSA addresses those views later in the section below.

III. Discussion

a. NHTSA Denies the Request To Remove the Untethered Test Completely

NHTSA denies the request to remove the untethered test requirement in FMVSS No. 213 as applied to all CRSs. The untethered test requirement ensures that CRSs provide at least a minimum level of adequate protection when the tether strap is not attached. As noted above in this preamble, NCRUSS and IIHS data show that tether nonuse continues to be a problem. Thus, the untethered test requirement serves an important safety need. Jewkes did not provide any data or rationale supporting its request. NHTSA concludes that the requested amendment would subject children to an unacceptable risk of injury in crashes and does not meet the need for motor vehicle safety.

b. NHTSA Denies the Request To Remove the Untethered Test for Hybrid CRSs

The Agency also denies the request to exclude the petitioner's ''hybrid'' child restraints from the untethered test requirement. The petitioner asserts that the untethered test is unnecessary for hybrid CRSs because caregivers will know to tether the restraint. Jewkes did not provide any data supporting this proposition. Furthermore, the data that are available to NHTSA do not support that view.

Studies have shown that caregivers do not use the tether anchorage because they are not familiar with it or do not know what it is for. A 2006 study by Decina et al.[8] found that 61 percent of upper tether nonusers cited their lack of knowledge—not knowing what the tethers were, that they were available in the vehicle, the importance of using them, or how to properly use them—as the reason for not using them. The study

[7] FMVSS No. 213 (S4) defines a ''harness'' as ''a combination pelvic and upper torso child restraint system that consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child.'' The petitioner's restraint system does not meet this definition; it has a rigid seating structure.

[8] Decina, L.E. et al. ''Child Restraint Use Survey: LATCH Use and Misuse.'' December 2006. DOT HS 810 679. Link: *https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/810679.*

did not find that consumers were forgoing tether use because they believed that CRSs with ''rigid junctions'' ''appear . . . to function equally well with and without top-tether,'' as Jewkes asserts.

Similarly, a 2013 study by IIHS [9] showed that the top reasons for not using the tether were:

- 22% did not know it was there,
- 15% did not know how to use,
- 13% in a hurry/not enough time to use it,
- 10% did not know where to attach the tether,
- 9% did not think it was important or needed,
- 9% did not know they had tether anchors in their vehicle and,
- 5% had no anchor for the seating position.

None of the reasons listed above for not using the tether specifically include a belief that the CRS, installed with no tether, has comparable performance to a tethered CRS.

The petitioner also claims that the need to use the tether with the hybrid CRS is ''readily apparent, because the shoulder harness is not accessible without it.'' The petitioner did not provide any data to support this assertion. Further, from the sketch provided by Jewkes in its petition and from the ''hybrid CRS'' definition it suggests, NHTSA cannot conclude that it is ''readily apparent'' that the tether must be used. Nothing in the sketch or the definition would prevent a user from ''accessing'' the shoulder harness of a hybrid CRS if the tether were not used. Given the findings of the Decina and IIHS studies which showed a substantial degree of unfamiliarity and unawareness on the part of consumers with tethers, NHTSA does not believe it should be assumed that consumers will automatically know or make the effort to attach the tether of a ''hybrid CRS.''

The consequences of a caregiver's not attaching the tether on a hybrid CRS can be severe. For example, a child in an untethered hybrid CRS would experience excessive head excursion and a high risk of head injury due to impacts with structures or objects in front of the seat.[10] Data from the National Automotive Sampling System—Crashworthiness Data System (NASS–CDS) [11] for the years 1995–2009 show that 39 percent of Abbreviated Injury Scale (AIS) 2+ [12] injuries to restrained children in frontal crashes are to the head and face, with 59 percent of these injuries due to contact with the seat and back support. In a study of 28 cases of children ages 0 to 15 who sustained AIS 2+ head or face injuries in a frontal crash, Arbogast et al. (2012) found that the front row seat back and the B-pillar were the most commonly contacted components.[13] The petitioner provided no data showing a lack of a safety need for the untethered test for children in hybrid CRSs. The requested amendment does not meet the need for motor vehicle safety and is denied.

c. The Requested Amendment's Possible Adverse Effect on Child Occupant Protection

The petitioner asserts that children are safer in a hybrid CRS compared to CRSs with a ''rigid junction.'' (NHTSA understands from the petition that CRSs with a ''rigid junction'' consist of a rigid seat bottom and rigid seat back, with a rigid side structure.) Although the petitioner did not specify the ages of the children for whom its product is intended, NHTSA gathers from the petition that hybrid CRSs would be for children weighing less than 30 or 40 pounds, who now use what is commonly known as a ''car safety seat'' (rather than a booster seat). For simplicity, hereinafter the agency will use ''car safety seat'' in referring to the CRSs that Jewkes describes as having a ''rigid junction between seat-bottom and seat back.'' These car safety seats with ''a rigid junction between the seat-bottom and seat back'' have an internal harness to restrain the child (and are different from high back booster seats, which do not have internal harnesses).

The petitioner provided no data supporting its argument that children will be safer in a hybrid CRS than in a car safety seat. To the contrary, NHTSA believes children are afforded greater protections in a car safety seat because FMVSS No. 213 requires car safety seats to provide adequate occupant protection (limiting a child's head excursion, and head and chest accelerations) even when the tether is not used. With tether use rates as low as they are (*e.g.,* NCRUSS, *supra,* found that the overall tether use was only 42 percent), NHTSA believes that a large portion of hybrid CRSs may similarly be used untethered. While petitioner asserts that hybrid CRS would not face the same type of untethered use, it does not support this assertion with data, and the risks presented by any potential misuse are high. The untethered test requirement ensures that a child's head would be reasonably protected against head impacts in an untethered car safety seat. That same child's head would be almost totally unprotected in an untethered hybrid CRS; the restraint would have no structure to keep the child's torso from rotating forward.

Another reason children would be more protected in a car safety seat than in hybrid CRSs is that car safety seats have a padded back and padded side structure that protect the head and torso of a restrained child in side crashes. Impacts to the side of a vehicle rank almost equal to frontal crashes as a source of occupant fatalities and serious injuries to children ages 0 to 12. In response to a safety need to improve side impact protection and pursuant to the Moving Ahead for Progress in the 21st Century Act (MAP–21), NHTSA has proposed side impact protection requirements for CRSs manufactured for children weighing up to 18 kilograms (40 pounds), and is in the process of finalizing these requirements.[14]

NHTSA found in conducting its research for the side impact rulemaking that the padded side structure (wings) on current car safety seats appear to be soundly effective in providing protection in side impacts. Hybrid CRSs have no side structure and padding. The petitioner provided no information on the performance of its hybrid CRS in side impacts, or discussed the proposed side impact protection requirements. In the absence of these data and information, NHTSA denies the petition.

d. The Absence of Safety Advantages

As discussed in this section, NHTSA disagrees with the petitioner's assertions

[9] Eichelberger A.H., et al. ''Use of top tethers with forward-facing child restraints: observations and driver interviews.'' Link to public presentation *http://www.iihs.org/media/85044cce-4c80-4818-b1d5-75a695f6924d/R3iBdw/Presentations/Eichelberger_tethers_Lifesavers.pdf.*

[10] The petitioner provided no information on how head and chest accelerations on the child could be affected if the hybrid CRS were untethered in a crash.

[11] In 2016, NASS–CDS was replaced with the Crash Investigation Sampling System (CISS).

[12] The Abbreviated Injury Scale is a 6-point ranking system used for ranking the severity of injuries. AIS2+ injuries are injuries of severity level 2 (moderate), 3 (serious), 4 (severe), and 5 (critical) according to the Abbreviated Injury Scale. *www.aaam.org.*

[13] Arbogast, K.B., S. Wozniak, Locey, C.M., Maltese, M.R., and Zonfrillo, M.R. (2012). Head impact contact points for restrained child occupants. *Traffic Injury Prevention,* 13(2):172–81.

[14] Section 31501(a) of MAP–21 states that the Secretary of Transportation (authority delegated to NHTSA) shall issue a final rule amending FMVSS No. 213 to ''improve the protection of children seated in child restraint systems during side impact crashes.'' NHTSA published an NPRM on January 28, 2014, proposing to amend FMVSS No. 213 to adopt side impact performance requirements for CRSs designed to seat children in a weight range that includes weights up to 18 kilograms (40 pounds) (79 FR 4570, Docket No. NHTSA–2014–0012). See Fall 2020 Unified Agenda of Regulatory and Deregulatory Actions, *https://www.reginfo.gov/public/do/eAgendaMain,* and search for Regulation Identifier Number 2127–AK95.

that hybrid CRSs have advantages over car safety seats.

1. The petitioner states that the ''greater fore-aft bulk'' due to the ''rigid junction'' reduces ''the available space for head excursion'' and increases the risk of neck or head injury to the child.'' Jewkes believes because a hybrid CRS lacks a rigid junction, there is increased available space for head excursion which reduces the risk of neck or head injury.

NHTSA's Response: Jewkes failed to provide supporting data demonstrating that the increased headspace for head excursions (stemming from a hybrid CRS's initial placement of the child's head closer to the vehicle seat back) offsets the increased risk of head and neck injury resulting from removing the limit on head excursions in the hybrid CRS's untethered condition. If the consumer does not attach the tether of a hybrid CRS—and data indicate the potential that many will not—there is a high likelihood the child's head will impact an object or surface that can cause injury, such as the seat back, B-pillar, or another passenger.

2. The petitioner states that the rigid junction introduces stiffer materials, increasing the ''mass and expense of the car-seat.'' Jewkes believes that the increased mass ''often limits the permissible child weight to barely over 40 pounds as the combined load limit for lower anchors has been proposed at 65 pounds.'' [15]

NHTSA's Response: The petitioner did not provide any information about the ''mass and expense'' of a hybrid CRS. NHTSA does not view the possible longer use by children of the FMVSS No. 225 system when in a hybrid CRS as a relevant factor. When the weight of a car safety seat plus the child exceeds 65 pounds, the CRS manufacturer instructs the consumer to install the car safety seat using a seat belt instead of the FMVSS No. 225 system. A car safety seat installed with a seat belt is also used with the tether, just as it is with an FMVSS No. 225 system.

More importantly, NHTSA does not view the ability of a hybrid CRS to use the FMVSS No. 225 system longer as a factor that outweighs the safety concerns discussed above. If a consumer does not attach the tether of a hybrid CRS, there would be a significantly higher risk of head injury compared to that of a child in an untethered car safety seat. Car safety seats are required to restrict head excursions when untethered. Under the sought-after amendment, an untethered hybrid CRS would have no restriction on head excursion and would not provide the same protection. Further, a hybrid CRS does not provide any head, thorax, pelvic or leg protection in side impacts even when tethered—whereas car safety seats can and do provide such protection. NHTSA does not view a hybrid CRS's longer use of the FMVSS No. 225 system as relevant or advantageous to safety.

3. The petitioner believes that a hybrid CRS would ''significantly simplify access'' to the lower anchorage bars of an FMVSS No. 225 system or to (lap) belt routing paths since it is less bulky than a car safety seat, which would make a tight installation of the hybrid CRS easier to achieve.

NHTSA's Response: The petitioner provides no data supporting its assertions. Data available to NHTSA indicate that there are vehicle [16] and CRS features [17] that affect the correct, tight installation of CRSs, such as the kind of connector used to attach to the FMVSS No. 225 system, the forces needed to attach the connectors, the position of the lower anchorages relative to the vehicle seat cushion and seat back, the location of the seat belt buckle stalk, and the presence of components that assist in tightening a seat belt used to attach the CRS. The bulk of the CRS back is not among the identified factors.

4. The petitioner states that caregivers may prematurely graduate their children to [belt-positioning booster seats (BPB)] or vehicle belts ''to avoid the expense of, or difficulty traveling with, a forward-facing car-seat [sic] following the baby, convertible or combination seats.'' The petitioner asserts that a hybrid CRS would reduce the number of users graduating their children to booster seats prematurely.

NHTSA's Response: NHTSA recommends that from birth to 12 months, children ride in a rear-facing car seat, and from 1 to 3 years they should be rear-facing as long as possible and then move to a harnessed forward-facing seat (car safety seat with tether) when they outgrow the rear-facing seat. From ages 4 to 7, children should ride in the harnessed forward-facing car safety seat (with tether) until they outgrow the seat, then ride in a booster seat. From ages 8 to 12, children should be in a booster seat until they are big enough to fit a vehicle seat belt properly.[18]

The petitioner provides no data supporting its assertion that consumers prematurely transition their children into boosters or belts to avoid the cost of purchasing a car safety seat or a booster seat, respectively, or to avoid difficulties traveling with such CRSs.[19] It provides no information supporting its claim that its product would reduce premature graduation.

NHTSA did not find information on reasons consumers transition toddlers to boosters prematurely. The Agency did find a 2008 Australian study [20] on factors associated with premature graduation of children into seat belts. The study showed that children who were moved prematurely into a seat belt were more likely to be older/heavier, have other children travelling in the vehicle and have younger parents compared to children appropriately restrained in a booster seat. In this study, parents identified the following reasons for moving a child into a seat belt:

- Child was too big for toddler/booster seat (27 percent)
- Child was old enough to not slide out of seat belt unaided (19 percent)
- Child had reached the upper weight limit of the CRS with integral harness/booster seat (14 percent)
- Child would be more comfortable in a seat belt (12 percent)
- Child disliked toddler/booster seat or feels too grown up for CRS with integral harness/booster seat (8 percent)
- Child would be safer in a seat belt (4 percent)
- Needed toddler/booster seat for another child (1 percent)
- Other (24 percent)

These reasons did not include the desire to avoid costs of another CRS or the difficulty in traveling with CRSs.

[15] The petitioner refers to FMVSS No. 213 labeling requirements instructing the consumer to use the lower anchorages of a child restraint anchorage system only while the child's weight plus the weight of the CRS is under 65 pounds. NHTSA requires the label (S5.5.2(l)(3)) to ensure that the lower anchorages will not be overloaded by loads that could potentially be imposed by heavier CRSs and heavier children in very severe crashes. FMVSS No. 225 requires vehicle manufacturers to install a child restraint anchorage system in rear seating positions of passenger vehicles. For simplicity, this document will refer to the child restraint anchorage system as the ''FMVSS No. 225 system.''

[16] Klinich, K., et al. ''Effects of Vehicle Features on CRS Installation Errors,'' DOT HS 811626, July 2012. *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811626.pdf.*

[17] Id.

[18] NHTSA's Car Seat Recommendations can be found at *https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec.*

[19] The petitioner provided no information on the price difference between hybrid CRSs and car safety seats. There are some inexpensive options of car safety seats in the U.S. market, as their prices range from $60 to over $300.

[20] Koppel,S., et al. ''Factors associated with the premature graduation of children into seatbelts,'' Monash University Accident Research Center. Accident Analysis & Prevention. March 2008. *https://www.sciencedirect.com/science/article/pii/S0001457507001510.*

Given what is known, NHTSA cannot agree with the petitioner's view that hybrid CRSs would prevent premature graduation into a booster or belt system.

5. The petitioner states that ''people with multiple CRS users would be able to place up to three hybrid CRSs side-by-side, such that compromising the child's safety can be avoided'' by avoiding premature graduation to a booster seat or to the adult belt system.

NHTSA's Response: The petitioner did not provide any information supporting its view. Fitting three CRSs side-by-side does not offset the concern that hybrid CRSs provide a reduced degree of occupant protection than car safety seats. In addition, NCRUSS [21] data show that few consumers are faced with this issue. The NCRUSS data show that only 1.4 percent of vehicles had CRSs adjacently installed. Specifically, NCRUSS found that of the 4,132 vehicles with children 9 years old or younger in the second row, 329 vehicles (8 percent) had two children in car seats in the second row—of these, 293 vehicles (7 percent) had the two children in the outboard seating positions and 36 vehicles (*0.9 percent*) had the two children in adjacent seating positions, (one in an outboard seating position and one in the center seating position). Twenty vehicles (*0.5 percent*) of the 4,132 vehicles had three children seated in a CRS in the second row—of these, 8 vehicles (0.2 percent) had three children in car safety seats, 1 vehicle (0.025 percent) had 2 car safety seats and a booster seat and 11 vehicles (0.26 percent) had 2 booster seats and 1 car safety seat.

e. Denial of Request To Consider Hybrid CRSs as Harnesses

Products meeting the definition of a ''child restraint system'' must meet the requirements of FMVSS No. 213. In some instances, sub-groups of child restraints (*e.g.,* car beds, booster seats, harnesses) are subject to specialized requirements or are excluded from a requirement. The standard currently does not subject harnesses to the untethered test requirement (S5.1.3.1(a)(1)). Harnesses have also been excluded from NHTSA's proposal establishing side impact protection requirements for children in child restraints.[22]

S4 defines a ''harness'' as ''a combination pelvic and upper torso child restraint system that consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child.'' The petitioner's hybrid CRS does not meet the current harness definition as it has a rigid seating structure.[23]

Jewkes suggests amending the definition along the lines of the following: ''An add-on forward facing CRS with five-point harness using a combination of flexible materials connecting a rigid seat-bottom to a seat-back structure.'' The effect of the suggested wording would be to exclude the petitioner's hybrid CRS from the untethered test requirement and the proposed side impact protection requirement.

NHTSA is denying the request. NHTSA considers harnesses to be a niche product that is not widely used in private vehicles.[24] NHTSA's Car Seat Recommendations, *supra,* do not mention harnesses at all in guiding consumers on how best to restrain children in motor vehicles. Because FMVSS No. 213 does not apply the same safety requirements to harnesses that it does to car safety seats, children are generally not as protected in harnesses in the general motor vehicle population as they are in car safety seats. NHTSA believes that a hybrid CRS with the rigid seating structure would not look as different from forward-facing car safety seats as a harness does. The Agency is concerned that consumers might purchase hybrid CRSs thinking that they afford the same protection as a traditional car safety seat, which is not the case. NHTSA declines to expand the harness definition to allow market entrance of a kind of CRS that does not provide equivalent crash protection to a car safety seat. The suggested amendment would provide caregivers a false sense of security about the level of crash protection provided their children.[25]

In accordance with 49 CFR part 552, NHTSA hereby denies Jewkes' February 21, 2017 petition.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2021–06223 Filed 3–26–21; 8:45 am]

BILLING CODE 4910–59–P

[21] National Child Restraint Use Special Study, *supra.*

[22] 79 FR 4570; January 28, 2014, *supra.*

[23] *See also* September 21, 2016, letter to Mr. Charles Vits, (CRS with a booster seating structure is not a harness), *https://isearch.nhtsa.gov/files/14-001678%20IMMI%20STAR%20crs.htm.*

[24] NHTSA is aware of a niche market for harnesses for use on large school buses to restrain preschoolers, children needing help sitting upright, and children needing to be physically restrained because of physical or behavioral needs. *See* 79 FR at 4576 (harnesses excluded from side impact proposal); 69 FR 10928, March 9, 2004 (''seat-mounted'' harnesses permitted for school bus seats). In the school bus environment, there is assurance that harnesses will be correctly used, as school bus drivers and monitors receive training to ensure harnesses are properly attached to the school bus seat and that passengers are all properly restrained.

[25] Additionally, expanding the definition to allow entry into the general marketplace of a CRS that does not ''improve the protection of children seated in child restraint systems during side impact crashes'' (MAP–21 section 31501(a)) would not be consistent with Congress's intent in enacting section 31501.

Notices

Federal Register
Vol. 86, No. 58
Monday, March 29, 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

Submission for OMB Review; Comment Request

March 24, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 28, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential

persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Chief Economist

Title: Generic Clearance of Multiple Crop and Pesticide Use.

OMB Control Number: 0503–NEW.

Summary of Collection: The primary purpose of this information will be to support the Office of Pest Management Policy (OPMP) understanding of agricultural practices pertaining to pest management. OPMP is undertaking this effort to satisfy legislative requirements outlined in Title X, Section 10109 of the 2018 Farm Bill, which mandates that The Secretary of Agriculture, acting through the Office of the Chief Economist's Director of OPMP, collect this information.

Pest management information is critical to supporting a key responsibility of OPMP, *i.e.,* to ''consult with agricultural producers that may be affected by pest management or pesticide-related activities or actions of the Department or other agencies,'' as outlined in the Agricultural Research, Extension, and Education Reform Act of 1998.

Need and Use of the Information: This request for approval will improve OPMP's ability to better understand the utilization of pest management tools by agricultural producers via input from pest management advisors—including Extension experts and crop consultants, who in addition to being advisors are often agricultural producers themselves. Data collected are intended to capture agricultural practices and needs to support federal activities that pertain to pest management, which are typically time-sensitive and necessitate the need for rapid data collection. OPMP will use several methods to collect information under this generic collection. The methods will be web-based surveys, telephone surveys, interviews, and/or focus groups may be needed under certain circumstances.

If the information is not collected, it would deny the agricultural industry the ability to afford important and insightful input towards a better understanding of pest management practices that may be unknown by the federal government, this consequence is especially valid for underrepresented specialty crops.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 12,777.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 24,949.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–06400 Filed 3–26–21; 8:45 am]

BILLING CODE 3410–GL–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comments Requested; Correction

March 24, 2021.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DATES: Comments regarding these information collections are best assured of having their full effect if received by April 28, 2021. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information

unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements (United States Grain Standards Act and Agricultural Marketing Act of 1946).

OMB Control Number: 0580–0309.

Summary of Collection: Congress enacted the United States Grain Standards Acts (USGSA) and the Agricultural Marketing Act (AMA) to facilitate the marketing of grain, oilseeds, pulses, rice, and related commodities. These statutes establish standards and terms that accurately and consistently measure the quality of grain and related products, provide for uniform official inspection and weighing, provide regulatory and official service responsibilities, and furnish the framework for commodity quality improvement incentives to both domestic and foreign buyers. The Department of Agriculture (USDA) Agriculture Marketing Service's (AMS) Federal Grain Inspection Service (FGIS) establishes policies, guidelines, and regulations to carry out the objectives of the USGSA and the AMA. The USGSA, AMA, and related regulations can be found at the AMS website.

The USGSA, with few exceptions, requires that grain sold for export and grain sold by grade be officially certified. Official services are also provided, upon request, for grain sold domestically. The AMA authorizes similar inspection and weighing services, upon request, for rice, pulses, flour, corn meal, and certain other agricultural products. Conversely, the regulations issued under the USGSA and AMA require that FGIS collect specific information and keep certain records necessary to carry out requests for official services. Applicants for service must specify the kind and level of service desired, the identification of the product, the location, the amount, and other pertinent information in order that official personnel can efficiently respond to their needs.

Official services under the USGSA are provided by FGIS field offices and official agencies, which may be classified as delegated or designated agencies. Delegated agencies are State agencies delegated authority under the USGSA to provide official inspection and/or weighing services at export port locations in the State. Designated agencies are State or local governmental agencies, or private agencies designated under the USGSA to provide official inspection and/or weighing services at locations other than export port locations. Official agencies provide services on behalf of FGIS and must comply with all regulations, procedures, and instructions in accordance with provisions established under the USGSA. FGIS oversees the performance of these agencies and provides technical guidance as needed.

Official services under the AMA are performed, upon request, on a fee basis for domestic and export shipments either by FGIS employees, individual contractors, or cooperators. Contractors are persons who enter into a contract with FGIS to perform specified inspection services. Cooperators are agencies or departments of the Federal government which have an interagency agreement or State agencies which have a reimbursable agreement with FGIS.

Need and Use of the Information: This information is used by USDA employees and State or private agencies authorized to perform official services under the USGSA or AMA.

USGSA and the AMA regulations require that producers, elevators operators, and/or merchandisers who obtain official inspection, testing, and weighing services keep records pertaining to the lot of grain or related commodity for a period of 3 years. In addition, the regulations issued under the USGSA and the AMA require that FGIS, State, and private personnel who provide official inspection, testing, and weighing services keep such records pertaining to the lot of grain or related commodity for a period of 5 years. This information is used for the purpose of investigating alleged violations of the USGSA and AMA.

Data is used for statistical purposes and the generation of reports within the agency and is shared within other USDA and government agencies as well as external stakeholders for statistical analysis.

Description of Respondents: Business or other for-profit.

Number of Respondents: 8,666.

Frequency of Responses: Recordkeeping; Third party disclosure; Reporting: On occasion; Semi-annually; Annually.

Total Burden Hours: 161,614.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–06384 Filed 3–26–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[3/13/2021 through 3/19/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
Delta Cooling Towers, Inc	185 US Highway 206, Roxbury Township, NJ 07836.	3/15/2021	The firm manufactures cooling towers for air conditioning equipment.
Tri-Power Design, LLC	2 Richwood Place, Denville, NJ 07834.	3/15/2021	The firm provides product design services and manufactures product prototypes.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE—Continued

[3/13/2021 through 3/19/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
Sand Dune Ventures, Inc. d/b/a TabletKiosk.	2832 Columbia Street, Torrance, CA 90503.	3/17/2021	The firm manufactures tablet computers.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Bryan Borlik,

Director.

[FR Doc. 2021–06376 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–816]

Certain Steel Nails From Malaysia: Final Results of the 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 certain steel nails from Malaysia were not sold at less than normal value during the period of review (POR), July 1, 2018, through June 30, 2019.

DATES: Applicable March 29, 2021.

FOR FURTHER INFORMATION CONTACT: Preston Cox or John Drury, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041 or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 2020, Commerce published the *Preliminary Results* of the 2018–2019 administrative review of the antidumping duty order on certain steel nails from Malaysia.[1] We invited interested parties to comment on the *Preliminary Results.* This review covers two mandatory respondents: Inmax and Region.[2] The producers/exporters not selected for individual examination are listed in the ''Final Results of the Administrative Review'' section of this notice. For a complete description of the events that followed the *Preliminary Results, see* the Issues and Decision Memorandum.[3] 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 scope of the order are certain steel nails from Malaysia. For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.[4]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are discussed in the Issues and Decision Memorandum. A list of topics included in the Issues and Decision Memorandum is included in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that Astrotech Steels Private Limited (Astrotech), Trinity Steel Private Limited (Trinity), and Jinhai Hardware Co. Ltd. (Jinhai) made no shipments of the subject merchandise to the United States during the POR. No parties commented on this determination. Therefore, for the final results of review, we continue to find that these companies made no shipments of subject merchandise to the United States during the POR. Consistent with our practice, we will issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on our final results.

Changes Since the Preliminary Results

Based on a review of the record and our analysis of the comments received from interested parties regarding our *Preliminary Results,* we made certain changes to the preliminary margin calculations for Inmax. For a complete discussion of these changes, *see* the Issues and Decision Memorandum.[5]

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review

[1] *See Certain Steel Nails from Malaysia: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 85 FR 74674 (November 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] Commerce has determined to collapse, and treat as a single entity, affiliates Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. (collectively, Inmax), and Region International Co. Ltd. and Region System Sdn. Bhd. (collectively, Region) for these final results of review. For a discussion of this analysis, *see Preliminary Results* PDM at 5–7.

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See* Issues and Decision Memorandum at 2–4.

[5] *See* Issues and Decision Memorandum at 4; *see also* Memorandum, ''Analysis Memorandum for Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. in the Final Results of the 2018/2019 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia,'' dated concurrently with this notice.

pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually examined, excluding any margins that are zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we have calculated weighted-average dumping margins for Inmax and Region that are zero or *de minimis,* and we have not calculated any margins which are not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, we have assigned to the companies not individually examined a margin of zero percent.

Final Results of the Administrative Review

Commerce determines that the following estimated weighted-average dumping margins exist during the POR:

Producer/exporter	Weighted-average dumping margin (percent)
Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd	0.00
Region International Co. Ltd. and Region System Sdn. Bhd	0.00
Chia Pao Metal Co., Ltd	0.00
Come Best (Thailand) Co., Ltd	0.00
Kerry-Apex (Thailand) Co., Ltd	0.00
Tag Fasteners Sdn. Bhd	0.00
Vien Group SDN. BHD	0.00
WWL India Private Ltd	0.00

Disclosure of Calculations

Commerce intends to disclose the calculations performed for these final results within five days of the date of publication of this notice in the **Federal Register** to parties in this proceeding, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Because we calculated margins for Inmax and Region which are zero or *de minimis* in the final results of this review, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Further, because we find in these final results that Astrotech, Trinity, and Jinhai had no shipments of subject merchandise during the POR, we will instruct CBP to liquidate such unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transactions.[6]

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by companies included in these final results 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.[7]

Consistent with its recent notice,[8] 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 upon publication of the notice of these final results 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) of the Act: (1) The cash deposit rate for the respondents (or non-selected companies) noted above will be equal to the weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this 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 company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.66 percent, the all-others rate established in the less-than-fair-value investigation.[9] These cash 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.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (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 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 issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221.

[6] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[7] *Id.*

[8] *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).

[9] *See Certain Steel Nails From Malaysia: Amended Final Determination of Sales at Less Than Fair Value,* 80 FR 34370 (June 16, 2015).

Dated: March 22, 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. Changes Since the Preliminary Results
V. Discussion of the Issues
Comment 1: Interest Income Offset
Comment 2: Programming Errors
Comment 3: Scrap Offset
Comment 4: Labor Costs
VI. Recommendation

[FR Doc. 2021–06383 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board; Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Travel and Tourism Advisory Board (Board or TTAB) will hold a meeting on Wednesday, March 31, 2021. The Board advises the Secretary of Commerce (Secretary) on matters relating to the U.S. travel and tourism industry. The purpose of the meeting is for Board members to discuss recommendations for the Secretary on how to distribute the funding appropriated in section 6001 of the American Rescue Plan Act of 2021 for ''assistance to States and communities that have suffered economic injury as a result of job and gross domestic product losses in the travel, tourism, or outdoor recreation sectors.'' The final agenda will be posted on the Department of Commerce website for the Board at *https://www.trade.gov/ttab-meetings* at least two days prior to the meeting.

DATES: Wednesday, March 31, 2021, 4:00 p.m.–5:00 p.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Monday, March 29, 2021.

ADDRESSES: The meeting will be held virtually. The access information will be provided by email to registrants.

Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted by email to *TTAB@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Aguinaga, the United States Travel and Tourism Advisory Board, National Travel and Tourism Office, U.S. Department of Commerce; telephone: 202–482–2404; email: *TTAB@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Exceptional Circumstances: Pursuant to 41 CFR 102–3.150(b), the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the American Rescue Plan Act of 2021, which contains $3 billion in funding for the Department of Commerce for economic adjustment assistance and requires that 25 percent of those funds be for ''assistance to States and communities that have suffered economic injury as a result of job and gross domestic product losses in the travel, tourism, or outdoor recreation sectors.'' To allocate the funds expeditiously and in a manner that would best achieve the goals of the Act, the Secretary of Commerce needs prompt advice from the Board on how these funds should be distributed.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. Any member of the public requesting to join the meeting is asked to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted but may not be possible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Members of the public wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on Monday, March 29, 2021, for inclusion in the meeting records and for circulation to the members of the Board.

In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Jennifer Aguinaga at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on Monday, March 29, 2021, to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be transmitted to the Board but may not be considered during the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

Jennifer Aguinaga,

Designated Federal Officer, United States Travel and Tourism Advisory Board.

[FR Doc. 2021–06412 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Organization of Scientific Area Committees for Forensic Science (OSAC) Membership Application

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 14, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Institute of Standards and Technology (NIST).

Title: Organization of Scientific Area Committees for Forensic Science (OSAC) Membership Application.

OMB Control Number: 0693–0070.

Form Number(s):

Type of Request: Revision and extension of a current information collection.

Number of Respondents: 1,000 per year.

Average Hours per Response: 5 minutes.

Burden Hours: 84 hours.

Needs and Uses: The information requested will allow NIST to fill new positions created within the Organization of Scientific Area Committees for Forensic Science (OSAC) and to replace positions vacated by resignation or rotation. Over 550 OSAC Members participate in the OSAC with up to ⅓ of them being eligible for reappointment or replacement each year. This effort provides a coordinated U.S. approach to the development of scientifically sound forensic science standards and ensures broad participation from forensic science practitioners, researchers, metrologists, quality assurance experts, defense, and prosecution.

Affected Public: Individuals and Households.

Frequency: Once a year.

Respondent's Obligation: Voluntary.

Legal Authority: This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0693–0070.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–06440 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No: 200918–0249]

RIN 0648–BJ52

Endangered and Threatened Species; Critical Habitat for the Threatened Indo-Pacific Corals, Extension of Public Comment Period

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

ACTION: Notice; extension of comment period.

SUMMARY: We, NMFS, are extending the public comment period by 60 days for our proposed rule to designate critical habitat for seven threatened corals in U.S. waters in the Indo-Pacific (*Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis,* and *Seriatopora aculeata*) under the Endangered Species Act. The end of the public comment period is extended from March 27, 2021, to May 26, 2021.

DATES: The public comment period is extended by 60 days to May 26, 2021. Comments must be received by May 26, 2021, as specified under **ADDRESSES**. Comments received after this date may not be accepted.

ADDRESSES: You may submit public comments in writing by any of the following methods. Comments must be received by May 26, 2021:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0131* click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Lance Smith, Protected Resources Division, NMFS, Pacific Islands Regional Office, NOAA Inouye Regional Center, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: You must submit comments by one of the previously described methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lance Smith, NMFS Pacific Islands Region, *lance.smith@noaa.gov* or 808–725–5131.

SUPPLEMENTARY INFORMATION: On November 27, 2020, NMFS proposed to designate critical habitat for seven Indo-Pacific corals listed as threatened under the Endangered Species Act (ESA) within U.S. waters in Guam, the Commonwealth of the Northern Mariana Islands (CNMI), American Samoa, and the Pacific Remote Island Area (PRIA). The seven species are *Acropora globiceps, A. jacquelineae, A. retusa, A. speciosa, Euphyllia paradivisa, Isopora crateriformis,* and *Seriatopora aculeata.* Proposed coral critical habitat consists of substrate and water column habitat characteristics essential for the reproduction, recruitment, growth, and maturation of the listed corals.

Proposed critical habitat consists of 17 separate units, each of which contains all ESA-listed corals that occur there: There are four units in American Samoa (Tutuila, Ofu-Olosega, Ta'u, Rose Atoll); seven in CNMI (Rota, Aguijan, Tinian, Saipan, Anatahan, Pagan, and Maug Islands); five in the PRIA (Howland, Palmyra, Kingman, Johnston, and Jarvis Islands); and one unit encompassing all proposed designations in Guam. Between one and six listed corals occur in each unit. The following areas are either ineligible for proposed critical habitat, or excluded because of national security impacts: A complex of overlapping Navy Surface Danger Zones off of Ritidian Point in Guam, other parts of Guam, parts of Tinian, a group of six Navy anchorage berths on Garapan Bank in Saipan, all of Farallon de Medinilla, and all of Wake Atoll.

Critical habitat protections apply only to Federal actions under Section 7 of the ESA; activities that are not funded, authorized, or carried out by a Federal agency are not subject to these protections. The proposed rule and other materials prepared in support of this action, including maps showing the proposed critical habitat, are available at: *https://www.fisheries.noaa.gov/action/proposed-rule-designate-critical-habitat-threatened-indo-pacific-corals.*

The original public comment period for this proposed rule was scheduled to close on January 26, 2021. In response to public input, we extended the public comment period by 30 days to February 25, 2021, and held two online public hearings on January 19 and January 21, 2021. At the public hearings, we received several requests to again extend the public comment period, to allow the public to adequately review the extensive supporting materials for the proposed rule in order to formulate public comments. Similarly, on January 26, 2021, we received a letter from the Governors of CNMI, Guam, and American Samoa requesting extension

of the public comment period for the same reason. In response, we extended the public comment period by another 30 days to March 27, 2021.

On March 12, 2021, we received a letter from the Directors of the American Samoa Department of Marine and Wildlife Resources, Commonwealth of the Northern Mariana Islands Department of Lands and Natural Resources, and Guam Department of Agriculture requesting additional time for public comments to provide the Territories and NMFS time to gather the best available scientific information on the listed corals to inform the final coral critical habitat rule. In response, we are extending the public comment period by another 60 days, and are accepting public comments for the proposed rule through May 26, 2021. Public comments can be submitted as described under **ADDRESSES**.

(Authority: 16 U.S.C. 1531 *et seq.*)

Dated: March 23, 2021.

Samuel D. Rauch, III,

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

[FR Doc. 2021–06343 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA960]

Endangered and Threatened Species; Notice of Initiation of a 5-Year Review of the Banggai Cardinalfish

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

ACTION: Notice; request for information.

SUMMARY: NMFS announces the initiation of a 5-year review for the Banggai cardinalfish (*Pterapogon kauderni*). NMFS is required by the Endangered Species Act (ESA) to conduct 5-year reviews to ensure that the listing classifications of species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on the Banggai cardinalfish, particularly information on the status, threats, and recovery of the species that has become available since its listing, effective February 19, 2016.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than May 28, 2021.

ADDRESSES: You may submit information on this document, identified by NOAA–NMFS–2021–0031, by the following method:

- *Electronic Submission:* Submit electronic information via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2021–0031. Click on the ''Comment'' icon and complete the required fields. Enter or attach your comments.

Instructions: Comments sent by any other method or received after the end of the specified period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Erin Markin, by phone at (301) 427–8416 or *Erin.Markin@noaa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces our review of the Banggai cardinalfish (*Pterapogon kauderni*) listed as threatened under the ESA. Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every 5 years. This will be the first review of this species since it was listed in 2016 (81 FR 3023, January 20, 2016). The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. On the basis of such reviews under section 4(c)(2)(B), we determine whether any species should be delisted or reclassified from endangered to threatened or from threatened to endangered (16 U.S.C. 1533(c)(2)(B)). As described by the regulations in 50 CFR 424.11(e), the Secretary shall delist a species if the Secretary finds that, after conducting a status review based on the best scientific and commercial data available: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species; and/or (3) the listed entity does not meet the statutory definition of a species. Any change in Federal classification would require a separate rulemaking process.

Background information on the species is available on the NMFS website at: *https://www.fisheries.noaa.gov/species/banggai-cardinalfish.*

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of *Pterapogon kauderni.* Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats to the species and its habitats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes and improved analytical methods for evaluating extinction risk.

If you wish to provide information for the review, you may submit your information and materials electronically. We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 24, 2021.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–06406 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA972]

Western Pacific Fishery Management Council (Council); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Western Pacific Stock Assessment Review (WPSAR) Steering Committee will convene a public meeting to discuss and approve the 5-year calendar for stock assessments, and to address any other concerns related to the WPSAR process.

DATES: The Steering Committee will meet from 10 a.m. to 12 p.m. on April 14, 2021.

ADDRESSES: The meetings will be held by web conference. Audio and visual portions of the web conference can be accessed at: *https://wprfmc.webex.com/wprfmc/onstage/g.php?MTID=e8c384805392ab62d6dd9bf6f6c818a68.* Web conference access information will also be posted on the Council's website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, (808) 522–8220 (voice) or (808) 522–8226 (fax).

SUPPLEMENTARY INFORMATION: The WPSAR steering committee consists of the Council's Executive Director, the Director of the NMFS Pacific Islands Fisheries Science Center, and the Regional Administrator of the NMFS Pacific Islands Regional Office. You may read more about WPSAR at *https://www.pifsc.noaa.gov/peer_reviews/wpsar/index.php.*

The public will have an opportunity to comment during the meeting. The agenda order may change. The meeting will run as late as necessary to complete scheduled business.

Meeting Agenda

1. Introductions.
2. Stock assessment prioritization results.
3. Discuss and update 5-year stock assessment review schedule, including any changes to the scheduling of reviews for stock assessments already on the calendar, and any new additions to the schedule.
4. Discuss and update review levels, *i.e.,* whether the stock assessments on the calendar will be reviewed as benchmark assessments (new assessments) or assessment updates (updates of existing models with recent data).
5. Review the upcoming schedule and nominate additional products for review by the Center for Independent Experts, if necessary.
6. Other business.
7. Public comment.

Special Accommodations

The meeting is physically accessible to people with disabilities. Make direct requests for sign language interpretation or other auxiliary aids to Kitty Simonds at (808) 522–8220, at least 5 days prior to the meeting date.

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

Dated: March 24, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06445 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA923]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys off of New York and New Jersey

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

ACTION: Notice; request for comments on proposed renewal incidental harassment authorization.

SUMMARY: NMFS received a request from Atlantic Shores Offshore Wind, LLC (Atlantic Shores), for the renewal of their currently active 2020 incidental harassment authorization (IHA) to take marine mammals incidental to marine site characterization surveys off the coasts of New York and New Jersey in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0499) and along potential submarine cable routes to a landfall location in New York or New Jersey. These activities for which Atlantic Shores has requested a renewal IHA are identical to those covered in the initial IHA, which is currently active and expires on April 19, 2020. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the initial IHA in 2020, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed renewal not previously provided during the initial 30-day comment period. If issued, the renewal IHA would be effective April 20, 2021 through April 19, 2022.

DATES: Comments and information must be received no later than April 13, 2021.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to *ITP.Daly@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection*-act without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, renewal request, and supporting documents (including **Federal Register** notices of the initial proposed and final authorizations and issued IHA), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are

issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). Monitoring and reporting of such takings are also required. The meaning of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1 year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, activities as described in the Description of the Specified Activities and Anticipated Impacts section is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA **Federal Register** notice (85 FR 21198, April 10, 2020), provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.* Any comments received on the potential renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested renewal, and agency responses will be summarized in the final notice of our decision.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed action (*i.e.,* issuance of incidental harassment authorization) and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the proposed action qualifies to be categorically excluded from further NEPA review.

Information in Atlantic Shores' application and this notice collectively provide the environmental information related to proposed issuance of these regulations and subsequent incidental take authorization for public review and comment. We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the request for incidental take authorization.

History of Request

On April 10, 2020, NMFS issued an IHA to Atlantic Shores to take marine mammals incidental to marine site characterization surveys off the coast of New York and New Jersey (85 FR 21198), effective from April 20, 2020 through April 19, 2021. On February 3, 2021, NMFS received a request from Atlantic Shores for the renewal of that initial IHA so that Atlantic Shores can continue its survey activities beyond April 19, 2021. As described in the request for the renewal IHA, the activities for which incidental take is requested are identical to those covered in the initial authorization. As required, the applicant also provided a preliminary monitoring report (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-atlantic-shores-offshore-wind-llc-marine-site-characterization*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

Description of the Specified Activities and Anticipated Impacts

Atlantic Shores proposes to conduct a second year of marine site characterization surveys, consisting of high-resolution geophysical (HRG) and geotechnical surveys, within the 183,353-acre Lease Area, located approximately 18 nautical miles southeast of Atlantic City, New Jersey, and proposed Export Cable Route (ECRs) corridors from the Lease Area to shore landing locations along the coast of New Jersey and New York. The purpose of the HRG and geotechnical

surveys is to support site characterization, siting, and engineering design of offshore Project facilities including wind turbine generators (WTGs), offshore substation(s), and submarine cables within the Lease Area and proposed ECR Areas. Atlantic Shores requested renewal of the initial IHA that was issued by NMFS in April 2020 on the basis that (1) up to another year of identical or nearly identical, activities as described in the Specified Activities section of the initial IHA is planned and, (2) the activities as described in the Specified Activities section of the initial IHA would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA.

In their 2020 IHA application, Atlantic Shores estimated it would conduct surveys for 350 days at a rate of 85 kilometers (km) per day for a total of 29,750 km. However, in 2020, Atlantic Shores completed only 16,893 km of geophysical surveys; therefore, approximately 12,857 km remain to be surveyed. Atlantic Shores also recognized they were able to survey approximately 55 km per day versus the predicted rate of 85 km per day considered in the initial IHA. Therefore, Atlantic Shores predicts the 12,857 km of survey planned in 2021 under the renewal IHA will occur over 234 days (12,857 km/55 km per day). The renewal IHA would authorize harassment to marine mammals for this remaining survey distance using survey methods identical to those described in the initial IHA application, hence the anticipated effects on marine mammals remain the same as well. All active acoustic sources and mitigation and monitoring measures would remain as described in the initial IHA. The amount of take requested for the renewal IHA reflects the amount of remaining work in consideration of marine mammal monitoring data from the 2020 survey season resulting in equal or less take than that authorized in the initial IHA.

Detailed Description of the Activity

A detailed description of the survey activities for which take is proposed here may be found in the **Federal Register** notices of the proposed IHA (85 FR 7926, February 12, 2020) and issued IHA (85 FR 21198, April 10, 2020) for the initial authorization. As described above, Atlantic Shores is not able to complete the survey activities analyzed in the initial IHA by the date the IHA is set to expire (April 19, 2021). As such, the surveys Atlantic Shores proposes to conduct under this renewal would be a continuation of the surveys as described in the initial IHA. The location and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices. Because part of the work has already been completed, the duration of the surveys conducted under the renewal IHA will occur over less time than that described for the initial IHA (234 days versus 350 days); however, Atlantic Shores will continue to operate 24 hours per day to complete the work. Atlantic Shores proposes to continue its activities on April 20, 2021, after the initial IHA expires on April 19. The proposed renewal would be effective for a period of one year from the date of issuance.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notice of the proposed IHA for the initial authorization (85 FR 7926, February 12, 2020). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the **Federal Register** notice of the proposed IHA for the initial authorization (85 FR 7926, February 12, 2020). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods used to estimate take for the specified activity are found in the **Federal Register** notices of the proposed and final IHA for the initial authorization. The acoustic source types, as well as source levels and marine mammal density and occurrence data applicable to this authorization remain unchanged from the initial IHA. Similarly, the stocks taken, methods of take, and type of take (*i.e.,* Level B harassment only) remain unchanged from the initial IHA.

In the initial IHA application submitted in 2019 for the 2020 HRG survey activities, Atlantic Shores used the following parameters to estimate the potential for take: (1) Maximum number of days of survey that could occur over a 12-month period in each of the identified survey areas; (2) maximum distance each vessel could travel per 24-hour period in each of the identified survey areas; (3) maximum ensonified area (zone of influence (ZOI)); and (4) maximum marine mammal densities for any given season that a survey could occur. The calculated radial distances to the Level B harassment threshold (160 decibel (dB) root mean square (rms)) from a survey vessel are included in Table 1.

TABLE 1—MODELED RADIAL DISTANCES FROM HRG SURVEY EQUIPMENT TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS

Sound source	Distance to level B harassment threshold (m)
Kongsberg EA 400	172
Teledyne ODOM Echotrac CVM	173
Applied Acoustics Dura-Spark 240	372
Edgetech 2000–DSS	4

TABLE 1—MODELED RADIAL DISTANCES FROM HRG SURVEY EQUIPMENT TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS—Continued

Sound source	Distance to level B harassment threshold (m)
Edgetech 216	5
Edgetech 424	6
Edgetech 512i	7
Teledyne Benthos Chirp III	71
Kongsberg GeoPulse	231
Innomar SES–2000 Medium-100 Parametric	116
Applied Acoustics S-Boom Triple Plate	97
Applied Acoustics S-Boom	56

The equation for estimating take for all species remains the same as the initial IHA:

Estimated Take = D × ZOI × # of days

Where: D = species density (per km^2)

and ZOI = maximum daily ensonified area

In the original 2019 IHA application, Atlantic Shores calculated a conservative ZOI by applying the maximum radial distance for any category and type of HRG survey equipment considered in its assessment to the mobile source ZOI calculation. This maximum calculated distance to the Level B harassment threshold for the sparker of 372 m was also used to calculate the ZOI for the requested extension. The resulting ZOI is 41.36 square kilometers (km^2).

This methodology of calculating take in the initial IHA applies to the proposed renewal IHA for all species, with the only difference being the fewer amount of days (*i.e.,* 234 versus 350). The result is that the amount of take is reduced proportionally to the reduction in the number of days of work remaining. As was done in the initial IHA, in some cases, Atlantic Shores has requested a deviation from the calculated take for some species given it does not account for group size. In other cases, the requested amount of proposed take deviates from the calculated take based on observations during the 2020 surveys. Other than in the instances described below, NMFS agrees with Atlantic Shores' request for take and we propose to authorize the same amount of take as described in their request.

As described in the renewal IHA request, large groups of common dolphins commonly approached the HRG survey vessels to bow ride during the 2020 surveys. Despite completing approximately 56.7 percent of the planned survey distance, Atlantic Shores reported using 67.3 percent of total take authorized in the initial IHA for this species. In 2019, the IHA application used seasonal density data to calculate requested take for 544 common dolphins. However, 2020 survey activities resulted in 366 takes accumulated for this species, which involved 58 common dolphin detection events where the mean pod size reported was 6.79. For the 2021 surveys, Atlantic Shores is requesting 406 common dolphin takes based on an encounter rate similar to that observed in 2020 (58 detection events × 7 animals/group). However, NMFS proposes to authorize the same amount of take of common dolphins as authorized in the initial IHA (544). Recently, NMFS has modified or proposed to modify other HRG IHAs in the same geographic region due to underestimates of take for bowriding dolphins (*e.g.,* 86 FR 13695, March 10, 2021; 85 FR 55415, September 8, 2020). Because of these experiences, we have determined this approach is necessary to ensure take is not exceeded.

In the initial IHA application, Atlantic Shores also adjusted calculated take (per the equation above) to consider group size for Risso's dolphin, Atlantic spotted dolphins, and long-finned pilot whales. As described in Atlantic Shores' interim monitoring report, they did not observe any of these species during the 2020 surveys. Therefore, we have carried over the same amount of take as proposed in the initial IHA. Atlantic Shores is also requesting the same amount of sei whale take as authorized in the previous IHA based on an encounter during 2020 survey operations where a single sei whale surfaced inside the Level B exposure zone resulting in a take.

Finally, during consideration of this renewal request, an error in the application information supporting the harbor porpoise take estimate was identified. Specifically, the density for harbor porpoise was accurate; however, the calculated take for each lease area was incorrectly reported which led to an inaccurate total take amount. The amount of take authorized in the 2020 IHA was 115 when it should have been 847 based on the method used. The correct take estimate for the remaining survey lines covered under the renewal, using that same method, would be 266 takes of harbor porpoise. However, zero harbor porpoises were detected during the 2020 surveys, suggesting that the corrected estimate would likely be an overestimate and the number of takes authorized in the initial IHA is sufficient, and therefore NMFS proposes to authorize the same number of harbor porpoise take included in the initial IHA (115).

TABLE 2—INITIAL IHA TAKE AUTHORIZED AND RENEWAL IHA PROPOSED TAKE

Species	Level B harassment		Percent of Population [5]
	Take authorized initial IHA	Proposed take renewal IHA	
North Atlantic right whale	9	8	1.9
Humpback whale	18	8	<1
Fin whale	20	9	<1
Sei whale	2	[1] 2	<1

TABLE 2—INITIAL IHA TAKE AUTHORIZED AND RENEWAL IHA PROPOSED TAKE—Continued

Species	Level B harassment		Percent of Population [5]
	Take authorized initial IHA	Proposed take renewal IHA	
Minke whale	9	5	<1
Sperm whale	3	1	<1
Long-finned pilot whale	6	[2] 6	<1
Bottlenose dolphin (W.N. Atlantic Coastal Migratory)	1,102	663	9.9
Bottlenose dolphin (W.N. Atlantic Offshore)	5,113	2408	3.8
Common dolphin	544	[3] 544	<1
Atlantic white-sided dolphin	82	[4] 42	<1
Atlantic spotted dolphin	100	[2] 50	<1
Risso's Dolphin	6	[2] 6	<1
Harbor porpoise	115	[2] 115	<1
Harbor seal	1,404	529	<1
Gray seal	1,404	529	1.9

[1] Adjusted from 1 to 2 animals based on 2020 field observations.
[2] Adjusted from calculated and requested take considering these species were not observed during the 2020 surveys.
[3] Atlantic Shores requested fewer takes than proposed here; however, we propose authorizing the same amount of take authorized in the initial IHA to account for the propensity for this species to bowride and travel in large groups.
[4] Adjusted from calculated take to account for group size.
[5] Population numbers in the initial IHA were generated from the Draft 2020 Stock Assessment Reports and remain valid to calculate percent of population here (NMFS, 2021).

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA (85 FR 21198, April 10, 2020), and the discussion of how we reached a least practicable adverse impact determination included in that document remains applicable. All mitigation, monitoring and reporting measures in the initial IHA are carried over to this proposed renewal IHA and summarized here:

- *Ramp-up:* A ramp-up procedure would be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities.
- *Protected Species Observers:* A minimum of one NMFS-approved Protected Species Observer (PSO) must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset) and 30 minutes prior to and during nighttime ramp-ups of HRG equipment.
- *Exclusion Zones (EZ):* Marine mammal EZ would be established around the HRG survey equipment and monitored by PSO during HRG surveys as follows: A 500-m EZ would be required for North Atlantic right whales and a 100-m EZ would be required for all other marine mammals.
- *Pre-Operation Clearance Protocols:* Prior to initiating HRG survey activities, Atlantic Shores would implement a 30-minute pre-operation clearance period. Ramp-up of the survey equipment would not begin until the relevant EZs have been cleared by the PSOs, as described above. HRG equipment would be initiated at their lowest power output and would be incrementally increased to full power. If any marine mammals are detected within the EZs prior to or during ramp-up, the HRG equipment would be shut down (as described below).
- *Shutdown of HRG Equipment:* If an HRG source is active and a marine mammal is observed within or entering a relevant EZ (as described above) an immediate shutdown of the HRG survey equipment would be required. Note this shutdown requirement would be waived for certain genera of small delphinids.
- *Vessel strike avoidance measures:* Separation distances for large whales (500 m NAWRD, 100 m other large whales; 50 m other cetaceans and pinnipeds); restricted vessel speeds and operational maneuvers.
- *Reporting:* Atlantic Shores will submit a marine mammal report within 90 days following completion of the surveys.

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (85 FR 7926, February 12, 2020) and solicited public comments on both our proposal to issue the initial IHA for marine site characterization surveys and on the potential for a renewal IHA, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (85 FR 21198; April 10, 2020). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the Renewal of the 2020 IHA.

The Marine Mammal Commission (the Commission) was concerned that the renewal process is inconsistent with the statutory requirements under section 101(a)(5)(D) of the MMPA. As such, the Commission recommended that NMFS refrain from issuing renewals for any authorization and instead use its abbreviated **Federal Register** notice process.

The notice of the proposed initial IHA expressly notified and invited comment from the public on the possibility that under certain, limited conditions the applicant could seek a renewal IHA for an additional year. The notice described the conditions under which such a renewal request could be considered and expressly sought public comment in the event such a renewal were sought. Further, since issuance of the initial IHA NMFS has modified the renewal process to provide notice through the **Federal Register** and an additional 15-day public comment period at the time the renewal IHA is requested. NMFS also will provide direct notice of the proposed renewal to those who commented on the initial IHA, to provide an opportunity to submit any additional comments. Therefore, the renewal process is consistent with section 101(a)(5)(D) of the MMPA and NMFS will continue to utilize this effective and efficient process provided the renewal criteria are met.

The Commission was also concerned that NMFS had not explicitly identified that a 1 year renewal IHA was a one-time opportunity in our **Federal Register** notices nor on our website. NMFS has since identified in **Federal Register** notices and on our website that a renewal IHA is one time opportunity.

Preliminary Determinations

The survey activities proposed by Atlantic Shores are identical to (and a subset of) those analyzed in the initial IHA, as are the method of taking and the effects of the action. The mitigation measures and monitoring and reporting requirements as described above are also identical to the initial IHA. The planned number of days of activity will be reduced given the completion of a small portion of the originally planned work. Therefore, the amount of take proposed is equal to or less than that authorized in the initial IHA. The potential effect of Atlantic Shores' activities remains limited to Level B harassment in the form of behavioral disturbance. In analyzing the effects of the activities in the initial IHA, NMFS determined that Atlantic Shores' activities would have a negligible impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.,* less than one-third of the abundance of all stocks).

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Atlantic Shore's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is proposing to authorize the incidental take of four species of marine mammals which are listed under the ESA: The North Atlantic right, fin, sei, and sperm whale. The Bureau of Ocean Energy Management (BOEM) and U.S. Army Corps of Engineers consulted with NMFS Greater Atlantic Regional Office (GARFO) under section 7 of the ESA on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. The resulting Biological Opinion, issued on April 10, 2013, concluded the proposed action may adversely affect but is not likely to jeopardize the continued existence of the four aforementioned species.

On April 13, 2020, GARFO determined that the 2013 Biological Opinion remained valid for issuance of Atlantic Shores' initial IHA and that the proposed MMPA authorization provides no new information about the effects of the action, nor does it change the extent of effects of the action, or any other basis to require reinitiation of the Opinion. Similarly, on March 3, 2021, GARFO concluded the same for issuance of the Renewal IHA to Atlantic Shores. Therefore, the 2013 Biological Opinion meets the requirements of section 7(a)(2) of the ESA and implementing regulations at 50 CFR 402 for our proposed action to issue an IHA under the MMPA, and no further consultation is required.

The 2013 Biological Opinion and amended ITS can be found at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable.*

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a renewal IHA to Atlantic Shores for conducting marine site characterization surveys off New York and New Jersey, effective from April 20, 2021 through April 19, 2022, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and initial IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* We request comment on our analyses, the proposed Renewal IHA, and any other aspect of this Notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: March 24, 2021.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–06423 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA963]

International Affairs; U.S. Fishing Opportunities in the Northwest Atlantic Fisheries Organization Regulatory Area

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

ACTION: Notification of U.S. fishing opportunities.

SUMMARY: We are announcing a fishing opportunity in the Northwest Atlantic Fisheries Organization Regulatory Area for shrimp in Division 3M. This action is necessary to make fishing privileges in the Regulatory Area available on an equitable basis to the extent possible. Fishing privileges for all other stocks for which the United States has access were previously allocated for 2020–2024. The intended effect of this notice is to alert U.S. fishing vessels of these fishing opportunities, to relay the available quotas available to U.S. participants, and to outline the process and requirements for vessels to apply to participate in this fishery.

DATES: Effective April 13, 2021 through December 31, 2024. Expressions of interest regarding fishing opportunities in the Northwest Atlantic Fisheries Organization (NAFO) will be accepted through April 13, 2021.

ADDRESSES: Expressions of interest regarding U.S. fishing opportunities in NAFO should be made in writing to Michael Pentony, U.S. Commissioner to NAFO, NMFS Greater Atlantic Regional Fisheries Office, by emailing Moira Kelly, Senior Fishery Program Specialist, at *Moira.Kelly@noaa.gov.*

Information relating to chartering vessels of another NAFO Contracting Party, transferring NAFO fishing opportunities to or from another NAFO Contracting Party, or general U.S. participation in NAFO is available from Patrick E. Moran, NMFS Office of International Affairs and Seafood Inspection, email: *Pat.Moran@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Moira Kelly, (978) 281–9218.

SUPPLEMENTARY INFORMATION:

General NAFO Background

The United States is a Contracting Party to NAFO. NAFO is an intergovernmental fisheries science and management body whose convention applies to most fishery resources in international waters of the Northwest Atlantic, except salmon, tunas/marlins, whales, and sedentary species such as shellfish.

As a Contracting Party within NAFO, the United States may be allocated catch quotas or effort allocations for certain species in specific areas within the NAFO Regulatory Area and may participate in fisheries for other species for which we have not received a specific quota. For most stocks for which the United States does not receive a specific allocation, an open allocation, known as the ''Others'' allocation under the Convention, is shared access between all NAFO Contracting Parties.

Additional information on NAFO can be found online at *https://www.nafo.int/About-us.* The NAFO Conservation and Enforcement Measures (CEM) that specify the fishery regulations, total allowable catches (TAC, quotas), and other information about the fishery program is available online at: *https://www.nafo.int/Fisheries/Conservation.* NAFO updates the CEM annually.

This notice announces the fishing opportunity available to U.S. vessels in NAFO regulatory waters specific to shrimp in Division 3M. This notice also outlines the application process and other requirements for U.S. vessels that wish to participate in the 3M shrimp fishery. Allocation of all other U.S. fishing opportunities were finalized in 2020, as described in the previous notice of fishing opportunities (85 FR 45198; July 27, 2020). Additional information is available in that notice and is not repeated here.

NAFO Fishing Opportunity Available to U.S. Fishing Vessels

Shrimp in Division 3M was made available for fishing at the 2019 Annual Meeting after a multi-year moratorium on fishing. (additional information is available online at *https://www.nafo.int/Library/Commission/Meeting-Proceedings-of-the-Commission.*) Prior to the moratorium, fishing was conducted using a days-at-sea system that allocated a certain number of days to Contracting Parties, rather than the now-standard quota (in weight) approach. NAFO was in discussions to shift the allocation scheme to a quota system when the moratorium became necessary to protect the stock. This effort was suspended because of the moratorium and is currently being renewed.

At the 2019 Annual Meeting of NAFO, the Commission decided to open the fishery using the previous days-at-sea program while pursuing a new quota-based management system. Due to the global COVID–19 pandemic, no progress was made in 2020 on this issue.

In our prior announcement, we explained that we would allocate 3M shrimp for only 2020 while the Commission considered a new management approach. Because no progress has been made to date, we are announcing the opportunity for this stock for 2021 through 2024, or until a new management scheme is adopted by the Commission. As such, applicants should note that the Commission might adopt a new allocation scheme before 2024, and that if it does, NOAA may terminate this potential permit before 2024 and publicly re-solicit interest through 2024. The holder of the rescinded permit would be invited to re-apply.

Authorization to fish for NAFO species will include permit-related conditions or restrictions, including but not limited to, minimum size requirements, bycatch-related measures, and catch limits. Any such conditions or restrictions will be designed to ensure the optimum utilization, long-term sustainability, and rational management and conservation of fishery resources in the NAFO Regulatory Area, consistent with the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries as well as the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, which has been adopted by all NAFO Contracting Parties.

Applying for These Fishing Opportunities

Expressions of interest to fish for the 2021–2024 U.S. fishing opportunity for 3M shrimp, described above, will be considered from all U.S. fishing interests (*e.g.,* vessel owners, processors, agents, others). Applicants are urged to carefully review and thoroughly address the application requirements and selection criteria as detailed below. Expressions of interest should be directed in writing to Regional Administrator Michael Pentony (see **ADDRESSES**).

Information Required in an Application Letter

Expressions of interest should include a detailed description of anticipated fishing operations for the full five years. Descriptions should include, at a minimum:

- Intended target species;
- Proposed dates of fishing operations;
- Vessel(s) to be used to harvest fish, including the name, registration, and home port of the intended harvesting vessel(s);
- The number of fishing personnel and their nationality involved in vessel operations;
- Intended landing port or ports; including for ports outside of the United States, whether or not the product will be shipped to the United States for processing;
- Processing facilities to be used;
- Target market for harvested fish; and,
- Evidence demonstrating the ability of the applicant to successfully prosecute fishing operations in the NAFO Regulatory Area, in accordance with NAFO management measures. This may include descriptions of previously successful NAFO or domestic fisheries participation.

Note that applicant U.S. vessels must possess or be eligible to receive a valid High Seas Fishing Compliance Act (HSFCA) permit. HSFCA permits are available from the NMFS Greater Atlantic Regional Fisheries Office. Information regarding other requirements for fishing in the NAFO Regulatory Area is detailed below and is also available from the NMFS Greater Atlantic Regional Fisheries Office (see **ADDRESSES**).

U.S. applicants wishing to harvest U.S. allocations using a vessel from another NAFO Contracting Party, or hoping to enter a chartering arrangement with a vessel from another NAFO Contracting Party, should see below for details on U.S. and NAFO requirements for such activities. If you have further questions regarding what information is required in an expression of interest, please contact Patrick Moran (see **ADDRESSES**).

Criteria Used in Identifying Successful Applicants

Applicants demonstrating the greatest benefits to the United States through their intended operations will be most successful. Such benefits may include:

- The use of U.S vessels and crew to harvest fish in the NAFO Regulatory Area;
- Detailed, positive impacts on U.S. employment as a result of the fishing, transport, or processing operations;
- Use of U.S. processing facilities;
- Transport, marketing, and sales of product within the United States;
- Other ancillary, demonstrable benefits to U.S. businesses as a result of the fishing operation; and
- Documentation of the physical characteristics and economics of the fishery for future use by the U.S. fishing industry.

Other factors we may consider include but are not limited to: A documented history of successful fishing operations in NAFO or other similar fisheries; the history of compliance by the vessel with the NAFO CEM or other domestic and international regulatory requirements, including potential disqualification of an applicant with repeated compliance issues; and, for those applicants without NAFO or other international fishery history, a description of demonstrated harvest, processing, marketing, and regulatory compliance within domestic fisheries.

To ensure equitable access by U.S. fishing interests, we may provide additional guidance or procedures, or we may issue regulations designed to allocate fishing interests to one or more U.S. applicants from among qualified applicants. These regulatory changes may result in NOAA altering or amending quota the NOAA grants an applicant through this process. NOAA will, however, notify any approved applicant of NOAA's proposed regulatory changes in advance of making the changes. After reviewing all requests for allocations submitted, we may also decide not to grant any allocations if it is determined that no requests adequately meet the criteria described in this notice.

Notification of Selected Vessels for NAFO Fisheries

We will provide written responses to all applicants notifying them of their application status and, as needed for successful applicants, allocation awards will be made as quickly as possible so that we may notify NAFO and take other necessary actions to facilitate operations in the regulatory area by U.S. fishing interests. Successful applicants will receive additional information from us on permit conditions and applicable regulations before starting fishing operations.

Mid-Term Allocation Adjustments

In the event that an approved U.S. entity does not, is not able to, or is not expected to fish an allocation, or part thereof, awarded to them, NMFS may reallocate to other approved U.S. entities. If requested, approved U.S. entities must provide updated fishing plans and/or schedules. A U.S. entity may not consolidate or transfer allocations without prior approval from NMFS. In the event that other approved U.S. entities are unable to fish additional allocation, NMFS may solicit further interest by notice in the **Federal Register**.

Chartering a Vessel To Fish Available U.S. Allocations

For 3M shrimp, the United States may enter into a chartering arrangement with a vessel from any other NAFO Contracting Party. Additionally, any U.S. vessel or fishing operation may enter into a chartering arrangement with any other vessel or business from a NAFO Contracting Party. The United States and the other Contracting Party involved in a chartering arrangement must agree to the charter, and the NAFO Executive Secretary must be advised of the chartering arrangement before the commencement of any charter fishing operations. Any U.S. vessel or fishing operation interested in making use of the chartering provisions of NAFO must provide at least the following information: The name and registration number of the U.S. vessel; a copy of the charter agreement; a detailed fishing plan; a written letter of consent from the applicable NAFO Contracting Party; the date from which the vessel is authorized to commence fishing; and the duration of the charter (not to exceed six months).

Expressions of interest using another NAFO Contracting Party vessel under charter should be accompanied by a detailed description of anticipated benefits to the United States, as described above. Additional detail on chartering arrangements can be found in Article 26 of the CEM (*https://www.nafo.int/Fisheries/Conservation*).

Any vessel from another Contracting Party wishing to enter into a chartering arrangement with the United States must be in full current compliance with the requirements outlined in the NAFO Convention and CEM. These requirements include, but are not limited to, submission of the following reports to the NAFO Executive Secretary:

- Notification that the vessel is authorized by its flag state to fish within the NAFO Regulatory Area during the applicable fishing year;
- Provisional monthly catch reports for all vessels of that NAFO Contracting Party operating in the NAFO Regulatory Area;
- Daily catch reports for each day fished by the subject vessel within the Regulatory Area;
- Observer reports within 30 days following the completion of a fishing trip; and
- An annual statement of actions taken by its flag state to comply with the NAFO Convention.

The United States may also consider the vessel's previous compliance with NAFO bycatch, reporting, and other provisions, as outlined in the NAFO CEM, before authorizing the chartering arrangement.

Fishing in the NAFO Regulatory Area

U.S. applicant vessels must be in possession of, or obtain, a valid HSFCA permit, which is available from the NMFS Greater Atlantic Regional Fisheries Office. All permitted vessels must comply with any conditions of this permit and all applicable provisions of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries and the CEM. We reserve the right to impose additional permit conditions that ensure compliance with the NAFO Convention and the CEM, the Magnuson-Stevens Fishery Conservation and Management Act, and any other applicable law.

Further details regarding U.S. and NAFO requirements are available from the NMFS Greater Atlantic Regional Fisheries Office, and can be found in the NAFO CEM on the internet (*https://www.nafo.int/Fisheries/Conservation*).

Dated: March 24, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–06410 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA955]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of scoping meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold scoping meetings via webinar pertaining to Amendment 49 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region (FMP). The amendment addresses catch levels and sector allocations for greater amberjack and recreational annual catch targets for the snapper grouper fishery.

DATES: The scoping meetings will be held via webinar on April 14 and 15, 2021.

ADDRESSES: *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The scoping meetings will be conducted via webinar and accessible via the internet from the Council's website at *https://safmc.net/safmc-meetings/public-hearings-scoping-meetings/.* The scoping meetings will begin at 6 p.m. Registration for the webinars is required. Registration information, a copy of the scoping materials, an online public comment form and any additional information as needed will be posted on the Council's website at *https://safmc.net/safmc-meetings/public-hearings-scoping-meetings/* as it becomes available.

Amendment 49 to the Snapper Grouper FMP

The Council is considering adjusting catch levels for greater amberjack in response to the most recent stock assessment for the species in the region. The stock assessment results indicated the stock is not overfished and is not undergoing overfishing. The South Atlantic Council's Scientific and Statistical Committee (SSC) has recommended new acceptable biological catch (ABC) levels based on the latest stock assessment, which incorporated updated recreational data based on NOAA Fisheries' Marine Recreational Information Program Fishing Effort Survey. Thus, the Council is considering changes to the South Atlantic greater amberjack total annual catch limit and sector allocations. The Council is also considering removal of all recreational annual catch targets for species managed under the FMP that are currently not being used in management.

During the webinar scoping meetings, Council staff will present an overview of the amendment and will be available to answer questions. Members of the public will have an opportunity to go on record to provide their comments for consideration by the Council.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 24, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06446 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA952]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Scientific and Statistical Committee's (SSC) Socio-Economic Panel.

DATES: The meeting will be held via webinar on April 13, 2021, from 9 a.m. until 5 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meeting at: *http://safmc.net/safmc-meetings/current-advisory-panel-meetings/.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The Socio-Economic Panel (SEP) will meet via webinar. The SEP will discuss the Council's draft Allocation Decision Tree Blueprint, which looks at incorporating biological, economic, and social information into allocation decision making, and using fishery performance reports to evaluate the efficacy of current fishery management techniques. The SEP will also review the research approach and results of the recently held Dolphin Wahoo Participatory Workshops. SEP members also will receive updates on recent Council amendments, the Council's Citizen Science Program, and a social census of Georgia's working waterfronts. The SEP will provide recommendations for SSC and Council consideration as appropriate.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 24, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06443 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA950]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Habitat Protection and Ecosystem-Based Management Advisory Panel (Habitat AP).

DATES: The Habitat AP will meet via webinar on Wednesday, April 14, 2021, from 1 p.m. to 4 p.m.; Thursday, April 15, 2021, from 9 a.m. to 4 p.m.; and Friday, April 16, 2021, from 9 a.m. to 12 noon.

ADDRESSES:

Meeting address: The meeting will be held via webinar.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The Habitat AP meeting is open to the public and will be available via webinar as it occurs. Registration is required. Webinar registration information and other meeting materials will be posted to the Council's website at: *http://safmc.net/safmc-meetings/current-advisory-panel-meetings/* as it becomes available.

The meeting agenda includes the following: A briefing on recent actions by the Council's Habitat Committee; status of amendment development; review and comment on NOAA Fisheries South Atlantic Climate Vulnerability Assessment; review and comment on NOAA Fisheries South Atlantic Ecosystem Status Report; input on the Council's Fishery Ecosystem Plan (FEP) II Roadmap Activities; initiate development of revisions to the Council's Beach Dredge and Fill and Large Scale Coastal Engineering Policy Statement Policy Statement; overview and discussion on how the Council's Habitat and Ecosystem web pages/Fishery Ecosystem Plan II Dashboard is being utilized; and updates on Habitat and Ecosystem Digital Dashboard and Web Services and discussion on use. The AP will also receive updates on: Executive Order on Climate; development of a SAFMC Habitat Blueprint; on the Endangered Species Act—Biological Opinion for beach, sand placement and dredging; Bureau of Ocean Energy Management 2021 Activities, the Kitty Hawk Wind and South Carolina Wind Call Areas; the Council Coordinating Committee Habitat Workgroup Activities; and Southeast Connectivity and Adaptation Strategy (SECAS) and Regional Conservation Blueprint.

The AP will develop recommendations as necessary for consideration by the Council's Habitat Protection and Ecosystem-Based Management Committee.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 24, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06447 Filed 3–26–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2021–OS–0018]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Federal Voting Assistance Program (FVAP), Mark Center Suite 05E22, Alexandria, VA 22350–5000, Benjamin Sweeney, 202–680–3015.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Post Card Application (FPCA); SF 76; OMB Control Number 0704–0503.

Needs and Uses: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. 203, requires the Presidential designee (Secretary of Defense) to prescribe an official form containing an absentee voter registration and ballot request application for use by the States to permit absent uniformed services voters and overseas voters to participate in general, special, primary and runoff elections for Federal office. The FPCA is completed in hardcopy or via the Federal Voting Assistance Program's (FVAP) online assistant (*fvap.gov*), and then submitted by the voter to an Election Official through mail, email, or fax (depending on State instructions).

Affected Public: Individuals or households.

Annual Burden Hours: 300,000.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

The respondents are absent uniformed services voters and overseas voters. The collected information will be retained by election officials to provide election materials, including absentee ballots, to the uniformed services, their eligible family members and overseas voters during the form's eligibility period provided by State law.

Dated: March 24, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–06429 Filed 3–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2021–OS–0017]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Federal Voting Assistance Program (FVAP), Mark Center Suite 05E22, Alexandria, VA 22350–5000, Benjamin Sweeney, 202–680–3015.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Write-In Absentee Ballot (FWAB); SF 186; OMB Control Number 0704–0502.

Needs and Uses: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. 203, requires the Presidential designee (Secretary of Defense) to prescribe an official backup ballot for use by the States to permit absent uniformed services voters and overseas voters to participate in general, special, primary and runoff elections for Federal office. The collected information will be used by State and local election officials to process uniformed service members, spouses and overseas citizens who submit their information to register to vote or receive an absentee ballot.

Affected Public: Individuals or households.

Annual Burden Hours: 300,000.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

The respondents are absent uniformed services voters and overseas voters. The collected information will be retained by election officials to provide election materials, including absentee ballots, to the uniformed services, their eligible family members and overseas voters during the form's eligibility period provided by State law.

Dated: March 24, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–06428 Filed 3–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2021–OS–0016]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Acquisition and Sustainment announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by May 28, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense for Acquisition and Statement, Office of Industrial Policy, 1400 Defense Pentagon, Room 3B854, Washington, DC 20301–1400, ATTN: Mr. Keith Arscott, or call 703–697–0051.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Industrial Capabilities Questionnaire; DD Form 2737; OMB Control Number 0704–0377.

Needs and Uses: The information collection requirement is necessary to provide the adequate industrial

capability analyses to indicate a diverse, healthy, and competitive industrial base capable of meeting Department demands. Additionally, the information is required to perform the industrial assessments required by Chapter 148, section 2502 of Title 10 of the U.S. Code; and to support development of a defense industrial base information system as required by Section 722 of the 1992 Defense Production Act, as amended, and Section 802 of Executive Order 12919. Respondents are companies/facilities specifically identified as being of interest to the Department of Defense. Industrial Capabilities Questionnaire DD Form 2737 records pertinent information needed to conduct industrial base analysis for senior DoD leadership to ensure a robust defense industrial base to support the warfighter.

Affected Public: Business or other for profit; Not-for-profit institutions.

Annual Burden Hours: 153,600.

Number of Respondents: 12,800.

Responses per Respondent: 1.

Annual Responses: 12,800.

Average Burden per Response: 12 hours.

Frequency: On occasion.

Dated: March 24, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–06431 Filed 3–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fund for the Improvement of Postsecondary Education—Supplemental Assistance to Institutions of Higher Education (SAIHE)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice announcing the availability of funds and the application deadline for new grants to institutions of higher education (institutions) under the Higher Education Emergency Relief Fund, Supplemental Assistance to Institutions of Higher Education (SAIHE), Assistance Listing Number (ALN) 84.425S, under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA). The SAIHE program supports institutions of higher education (IHEs) with unmet needs related to recovery from disruptions in the finances, day-to-day operations, instruction, and student supports due to coronavirus.

DATES:

Applications Available: March 29, 2021.

Deadline for Transmittal of Applications: April 28, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B133, Washington, DC 20202. Telephone: (202) 377–3711. Email: *HEERF@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The SAIHE program supports IHEs that the Secretary determines, after allocating funds under section 314(a) of the CRRSAA, have unmet needs related to coronavirus.

Background: On December 27, 2020, the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA), division M of), Public Law 116–260, was signed into law. Section 314(a)(3) of CRRSAA provides 0.5 percent, or approximately $113.5 million, of a portion of the Education Stabilization Fund for part B of title VII of the Higher Education Act of 1965 (HEA), as amended, for public and private nonprofit institutions of higher education that the Secretary determines have, after allocating other funds available under CRRSAA HEERF, the greatest unmet needs related to coronavirus, including institutions with large populations of graduate students and institutions that did not otherwise receive an allocation under CRRSAA. We note that, while proprietary institutions were eligible for grants under CARES Act section 18004(a)(1), they are not considered an eligible institution under this program as eligibility is limited under CRRSAA section 314(a)(3) to those institutions that are eligible under part B of title VII of the HEA.

Therefore, to determine the types of institutions that would be funded under the statutory focus of ''greatest unmet needs related to coronavirus,'' the Department published a notice on February 25, 2021,[1] that announced the Department's proposed institutional eligibility criteria for the SAIHE program and invited public comment.

The Department accepted public comments from February 25, 2021 through March 8, 2021. The Department received comments from fourteen entities representing institutions of higher education and trade organizations. Of the comments received, many of the comments supported funding for Minority Serving Institutions (MSIs), especially those IHEs not included in the MSI, Strengthening Institutions Program (SIP) allocation tables. Additionally, while there was a positive response with the criteria included in the notice, many of the commentors further noted the importance of including institutions serving low-income and diverse populations. Also, some of the commenters requested funding to support institutions serving high graduate populations. The Department also received comments that requested funding for institutions that serve high populations of students with financial needs, including institutions in rural areas, citing the limited resources and economic challenges for students. There was also a comment to place emphasis on trade schools, apprenticeships, and training programs.

Therefore, after reviewing the comments received and discussions with several organizations representing institutions of higher education, the Department believes that the types of IHEs highlighted under each absolute priority capture the intent of CRRSAA 314 (a)(3). The groups of IHEs that the Department has categorized as meeting the statutory focus of having additional needs related to institutional and student costs associated with coronavirus are described under each priority. This notice establishes the eligibility requirements an institution must meet to be funded under one of the seven absolute priorities.

Under Absolute Priority 1, the Department will provide funding to institutions that were not designated as eligible under the HEA, as amended, title III and V programs at the time that the Department allocated funds under CRRSAA section 314(a)(2)—Minority Serving Institution (MSI)/Strengthening Institutions Program (SIP)—but that

[1] *https://www2.ed.gov/about/offices/list/ope/heerfiieligibilitymemo.pdf.*

were subsequently designated as eligible for FY 2021.

Under Absolute Priority 2, the Department will provide funding to institutions that were eligible to receive funding under CRRSAA section 314(a)(1) (public and nonprofit IHEs participating in the title IV program) but did not receive an award because they did not report student data in the 2018/19 Integrated Postsecondary Education Data System (IPEDS) data collection, which was the data used in calculating the formula awards for CRRSAA section 314(a)(1).

Under Absolute Priority 3, the Department will provide funding to institutions that were eligible to receive funding under section 18004(a)(1) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), but did not receive an award because the applicant did not apply by the deadline, resulting from unsuccessful attempts to apply, or because the applicant failed to submit a complete application under the correct *grants.gov* funding opportunity number. The Department will not accept applications from IHEs that we cannot verify have previously attempted to apply through *grants.gov* for a section 18004(a)(1) grant.

Under Absolute Priority 4, the Department will fund branch campuses designated as eligible under titles III and V of the HEA (according to the FY 2021 Eligibility Matrix) but were not funded through CRRSAA section 314(a)(2) either directly or through their parent institutions because the Department did not have the requisite data to calculate their allocations.

Under Absolute Priority 5, the Department seeks to fund institutions that can demonstrate that, because their institution merged after December 27, 2020 (the date CRRSAA was enacted) or had a recent change in HEA title IV Program Participation Agreement (PPA) effective date resulting in the institution being underfunded due to the formula methodology used to calculate allocations under CRRSAA section 314(a)(1).

Under Absolute Priority 6, the Department invites applications from community colleges and institutions of higher education located in rural settings that serve a high percentage of low-income students and have experienced significant enrollment declines, indicating particularly acute institutional needs. According to the Pell Institute for the Study of Opportunity of Higher Education, ''the lowest income students in the United States face great obstacles paying for college and the impact of the COVID–19 epidemic may compound the uncertainty such students face. . .''.[2] Under this priority, the Department has set two minimum thresholds for these institutions, both of which must be met: (1) Fifty percent or more of undergraduate students enrolled in Fall 2018 were Pell Grant recipients (this will ensure that funds awarded under this priority are targeted to institutions that serve a high percent of low-income students); and (2) a 4.5 percent or more decline in student enrollment (this will help to identify the IHEs that should be considered as having unmet need). According to recent reports,[3] several IHEs are experiencing significant declines in enrollment because of the pandemic; this is especially true at rural community colleges. According to a recently published report by the Association of Community College Trustees, ''Strengthening Rural Community College: Innovations and Opportunities,'' the coronavirus has exacerbated some of the social and economic challenges facing many rural communities, negatively impacting rural community colleges[4] and the students they serve. Therefore, the Department is also using this priority to target rural community colleges. Through this priority, the Department seeks to make awards to IHEs that meet the criteria set forth in absolute priority 6 to get additional financial aid to students to support their continued engagement and reengagement in postsecondary education.

Finally, the Department is establishing priority 7, to provide additional support to institutions with high percentages of graduate students. Congress specified in CRRSAA section 314(a)(3) that, in allocating funds to institutions with the greatest unmet need due to the coronavirus, the Department should consider institutions with large populations of graduate students. Accordingly, under this priority, the Department is awarding funds to eligible institutions for which graduate students are 90 percent or more of their student population. This threshold of 90 percent reflects the Department's goal of targeting funds to institutions with large graduate populations since the weighting of the main CRRSSA formula toward Pell recipients meant that these institutions did not receive particularly large awards relative to the size of their student body. However, because some standalone graduate schools may have small undergraduate offerings, we have chosen 90 percent as a threshold to ensure we do not exclude a college that is primarily a graduate institution with a limited amount of non-graduate programs.

Priorities: This notice contains seven absolute priorities. We are establishing these priorities for fiscal year (FY) 2021 grant competitions and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priorities: These priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one of these priorities.

The Secretary intends to award grants under each of the absolute priorities. Applicants must clearly identify the specific absolute priority that the proposed project addresses in the SAIHE Program Profile Information Form. Each applicant may submit only one application under this competition that addresses one absolute priority.

In selecting grantees across Absolute Priorities 1–7, the Department will fund each applicant according to the absolute priority for which it is applying. The allocation formula used for allocating funds will be specific to each priority. Depending on the number of applications received for each of the priorities, the Department may prioritize one priority over another and may reduce funding across all priorities to fund the maximum number of applicants.

In calculating award amounts under each priority, the Department will apply the following:

For Absolute Priorities 1 and 4, the funds will be allocated based on the formula methodology that was used to calculate CRRSAA section 314(a)(2) MSI/SIP allocations (available at *https://www2.ed.gov/about/offices/list/ope/heerfiia2methodology.pdf*).

For Absolute Priorities 2 and 5, the funds will be allocated based on the formula methodology that was used for CRRSAA section 314(a)(1) (available at *https://www2.ed.gov/about/offices/list/ope/314a1methodologyheerfii.pdf),* while incorporating the data provided in the SAIHE Program Profile Information Form under these absolute priorities. In addition to the formula for

[2] *http://pellinstitute.org/indicators/reports_2020.shtml.*

[3] *https://nscresearchcenter.org/wp-content/uploads/Covid19-TransferMobilityProgress-Final Fall2020.pdf.*

[4] Rush-Marlowe, R. (2021). Strengthening Rural Community Colleges: Innovations and Opportunities. Washington, DC Association of Community College Trustees. This paper may only be reproduced or disseminated, in whole or in part, with proper attribution and within terms of this Creative Commons license for noncommercial use: *https://creativecommons.org/licenses/by-nc/3.0/us/.*

Absolute Priority 5, the Department will take into account any funds already received under CRRSAA section 314(a)(1) by the institution.

For Absolute Priority 3, the funds will be allocated based on the amount an applicant would have received based on the formula methodology for CARES Act section 18004(a)(1) (available at *https://www2.ed.gov/about/offices/list/ope/heerf90percentformulaallocationexplanation.pdf*).

For Absolute Priority 6, awards for applicants under this absolute priority will be based on the number of Pell Grant recipients the institution serves. The per Pell recipient amount will be established after the Department receives all the applications under this priority.

For Absolute Priority 7, the Department will use the number of graduate students enrolled at the institution as reported on the SAIHE Program Profile Information Form to calculate the allocation.

Note: Those institutions that are applying under absolute priority 1 or 4, should ensure that they have completed the FY 2021 eligibility process under parts A and F of title III and title V of the HEA, as published in a notice in the **Federal Register** on March 4, 2021 (86 FR 12665).

These priorities are:

Absolute Priority 1—Minority Serving Institutions (MSI) and Strengthening Institutions Program (SIP) Institutions That Did Not Receive CRRSAA Section 314(a)(2) Award

An institution that meets the eligibility requirements in FY 2021 for HEA Title III and Title V for any of the MSI programs or SIP and did not receive any funds under CRRSAA section 314(a)(2) of the CRRSAA (ALNs 84.425J, 84.425K, 84.425L, or 84.425M) because it was not eligible in FY 2020 and have not otherwise received funding under CRRSAA section 314(a)(2). An IHE must demonstrate that it meets the eligibility requirements for FY 2021 for HEA Title III or Title V as published in a notice in the **Federal Register** on March 4, 2021 (86 FR 12665) by completing Section 5 of the Program Profile Information Form for this absolute priority.

Absolute Priority 2—Institutions of Higher Education Eligible Under Section 314(a)(1) of the CRRSAA That Did Not Receive CRRSAA Section 314(a)(1) Award

An institution that did not receive funds under the CRRSAA section 314(a)(1) student aid portion or section 314(a)(1) institutional portion (HEERF II) programs (ALNs 84.425E and 84.425F) because it was not included in the IPEDS data collection that was used to allocate awards, but otherwise is eligible, Title IV-participating IHE on or after December 27, 2020 as indicated by their PPA effective date. An institution funded under this absolute priority must expend their SAIHE funds in the same manner as required under the CRRSAA (HEERF II) section 314(a)(1) program (*i.e.,* institutions must spend at least the amount received under the CARES Act section 18004(a)(1) student portion for financial aid grants to students, or, if not funded under the CARES Act, must spend at least 50 percent of funds on grants to students). An IHE must complete Section 5 of the Program Profile Information Form for this absolute priority.

Absolute Priority 3—Applicants for Assistance Under Section 18004(a)(1) of the CARES Act That Did Not Receive CARES Act Section 18004(a)(1) Award

A public or private non-profit institution that was eligible to receive funding under CARES Act (HEERF I) section 18004(a)(1) and did not receive funding under one or both of the CARES Act (HEERF I) section 18004(a)(1) student aid portion or section 18004(a)(1) institutional portion programs (ALNs 84.425E and 84.425F) due to missing the application deadline, which resulted from an unsuccessful previous attempt to apply for funding, an incomplete application, or an application submitted under an incorrect funding opportunity number. An institution funded under this category must expend the SAIHE award in the same manner as required under CARES Act (HEERF I) section 18004(a)(1) programs. An IHE must complete Section 5 of the Program Profile Information Form for this absolute priority.

Absolute Priority 4—Minority Serving Institution Branch Campuses That Did Not Receive CRRSAA Section 314(a)(2) Award

An institution that is a branch campus that was designated through the FY 2021 Titles II and V Eligibility process [5] as meeting MSI or SIP criteria but did not, either independently or through the parent institution, receive CRRSAA section 314(a)(2) funding, and the parent institution did not qualify under Absolute Priority 1. An IHE must complete Section 5 of the Program Profile Information Form for this absolute priority.

[5] *https://www2.ed.gov/about/offices/list/ope/idues/eligibility.html.*

Absolute Priority 5—Institutions of Higher Education That Merged After CRRSAA, or Whose PPA Effective Date Resulted in the Institution Being Underfunded due to the Formula Methodology Used for Allocation Under CRRSAA Section 314(a)(1)

An institution that received a CRRSAA section 314(a)(1) allocation that did not reflect the institution's total student enrollment or Pell recipients because of either (1) an institutional merger that was not captured in its CRRSAA section 314(a)(1) allocation or (2) had a recent change in HEA title IV Program Participation Agreement (PPA) effective date resulting in the institution being underfunded due to the formula methodology used to calculate allocations under CRRSAA section 314(a)(1). An institution funded under this priority must use at least 50 percent of SAIHE award for financial aid grants to students. An IHE must complete Section 5 of the Program Profile Information Form for this absolute priority.

Absolute Priority 6—Institutions of Higher Education That Serve a High Percent of Students With Financial Need and Have Experienced Declining Enrollment

Institutions that—

(a) Have—

(1) Experienced a decrease in student enrollment of 4.5 percent or more between Fall 2019 and Fall 2020; and

(2) Had a total student undergraduate enrollment in Fall 2019 of which 50 percent or more are Pell Grant recipients; and

(b) Are one or both of—

(1) A community college (as defined in this notice); or

(2) Located in a rural campus setting.

Note: The following campus settings will be considered rural: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, Rural-Remote, as defined by the National Center for Education Statistics (NCES) College Navigator search tool. Applicants may look up individual campus locale settings at: *https://nces.ed.gov/collegenavigator/.*

An institution funded under this priority must use the funds awarded for financial aid grants to students, including students needing financial assistance to reenroll.

In making awards under this priority, the Department will give priority to eligible applicants in the following order: Tier 1: Community colleges in rural locale settings; Tier 2: Community colleges not in rural locale settings; and Tier 3: Other public and private

nonprofit institutions of higher education in rural locale settings. Depending on the funds available for this absolute priority, some applicants may not be funded based on tier rankings. An IHE must complete Section 5 of the Program Profile Information Form for this absolute priority.

Absolute Priority 7—Institutions With a Large Graduate Student Population

A public or private non-profit institution in which graduate students make up 90 percent or more of total enrollment. An institution funded under this priority must use funds awarded for financial aid grants to graduate students with financial need associated with the coronavirus (*e.g.,* loss of employment, decreased wages, childcare). An IHE must complete Section 5 of the Program Profile Information Form for this absolute priority.

Definitions: For fiscal year (FY) 2021 grant competitions and any subsequent year in which we make awards from the list of unfunded applications from this competition, we are establishing the definition of ''community college'' and ''Minority Serving Institution,'' in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

Community college means an institution that meets the definition in section 312(f) of the HEA (20 U.S.C. 1058(f)) or an IHE (as defined in section 101 of the HEA) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

Minority-Serving Institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and definitions. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 314(a)(3) of CRRSAA, and therefore qualifies for this exemption. To ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities and definitions under section 437(d)(1) of GEPA.

Program Authority: The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA), Division M of Public Law 116–260.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $113,485,680.

Estimated Range of Awards: The range of awards will depend on the absolute priority for which an institution is applying. See the *Absolute Priorities* section of this notice for more information. For any of the absolute priorities included in this notice, should the Department receive more applications than it has available funding under CRRSAA section 314(a)(3), the Department reserves the right to make ratable reductions for any of the allocations under any of the absolute priorities. For Absolute Priority 6, the Department may not fund all eligible applications, and will prioritized by tier.

Project Period: Up to 12 months.

Note: The Department is not bound by any estimates in this notice.

III. Eligibility Information

1. *Eligible Applicants:* Eligible applicants are IHEs as defined in section 101 of the HEA (20 U.S.C. 1001), that are public or private non-profit IHEs and meet the criteria under the absolute priority for which they are applying. With the exception of Absolute Priority 4, institutional eligibility is based on the six-digit OPEID.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Subgrants are not allowed under this program.

4. *Uses of Funds:* Unless noted otherwise in this notice, in accordance with section 314(c) of the CRRSAA, grantees may use these grant funds for their institutional costs to defray expenses associated with coronavirus (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll); carry out student support activities authorized by the HEA that address needs related to coronavirus; and make additional financial grants to students, which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care.

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003), and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards in a timely manner.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice. Additionally, no funds received by an IHE under this section shall be used to fund contractors for the provision of pre-enrollment recruitment activities; marketing or recruitment; endowments; capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship; senior administrator or executive salaries, benefits, bonuses, contracts, incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; or any other cash or other benefit for a senior administrator or executive.

4. *Recommended Page Limit:* There is a 10-page recommended page limit. The application for this program includes the Standard form 424, the Certificate and Agreement, and the SAIHE Program Profile. If you wish to include any additional documents, those documents should be included under the other attachments form. The project narrative form in *grants.gov* is where you, the applicant, will include the Certificate and Agreement for this program and the SAIHE Program Profile.

5. *Program Profile:* Applicants must complete the program profile and submit under the program narrative form in *grants.gov*.

V. Application Review Information

1. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any

discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For this competition, the Department has waived the peer review process for this program. Department staff will review eligible applications using the absolute priority criteria provided in this notice.

2. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, the individuals listed as the Authorizing Representative and Director will receive a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN.

If your application is not evaluated or not selected for funding, we will notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* Reporting requirements are specified in each program's Certification and Agreement or Supplemental Agreement.

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Michelle Asha Cooper,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2021–06527 Filed 3–26–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0002]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Migrant Student Information Exchange User Application Form

AGENCY: Office of Elementary and Secondary Education (OESE), 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 28, 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 Benjamin Starr, (202) 245–8116.

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: Migrant Student Information Exchange User Application Form.

OMB Control Number: 1810–0686.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 312.

Total Estimated Number of Annual Burden Hours: 156.

Abstract: This extension request is necessary to continue the collection of the existing MSIX User Application. State educational agencies (SEAs) with MEPs will collect the information from state and local education officials who desire access to the MSIX system. The form verifies the applicant's need for MSIX data and authorizes the user's access to that data. The burden hours associated with the data collection are required to meet the statutory mandate in Sec. 1308(b) of Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act, which is to facilitate the electronic exchange by the SEAs of a set of minimum data elements to address the educational and related needs of migratory children.

Dated: March 24, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–06407 Filed 3–26–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Request for Information (RFI) on Risks in the High-Capacity Batteries, Including Electric Vehicle Batteries Supply Chain

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for information (RFI).

SUMMARY: On February 24, 2021, President Biden issued an Executive order directing several Federal agency actions to secure and strengthen America's supply chains. One of these directions is for the Secretary of Energy to submit, within 100 days, a report to the President identifying risks in the high-capacity batteries, including electric-vehicle batteries, supply chain and policy recommendations to address these risks. The U.S. Department of Energy (DOE or Department) invites public comment on its Request for Information (RFI) number DE–FOA–0002502 regarding the Risks in the High-Capacity Batteries, including Electric Vehicle Batteries Supply Chain.

DATES: Responses to the RFI must be received by April 14, 2021.

ADDRESSES: Interested parties are to submit comments electronically to *VTO@ee.doe.gov.* Include ''High-Capacity Batteries Supply Chain RFI'' in the subject line of the email. Responses must be provided as attachments to an email. Only electronic responses will be accepted. The complete RFI document is located at *https://eere-exchange.energy.gov/.*

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to *VTO@ee.doe.gov* or to Samuel Gillard at 202–287–5849.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2021, President Biden issued Executive Order 14017, ''America's Supply Chains'' (86 FR 11849). E.O. 14017 focuses on the need for resilient, diverse, and secure supply chains to ensure U.S. economic prosperity and national security. Such supply chains are needed to address conditions that can reduce critical manufacturing capacity and the availability and integrity of critical goods, products, and services. In relevant part, E.O. 14017 directs that within 100 days, the Secretary shall submit a report to the President, through the Assistant to the President for National Security Affairs (APNSA) and the Assistant to the President for Economic Policy (APEP), identifying the risks in the supply chain for high-capacity batteries, including electric vehicle batteries, and policy recommendations to address these risks.

Written Comments

The Department is particularly interested in information directed to the policy objectives listed in E.O. 14017 as they affect the supply chain for high-capacity batteries, including electric vehicle batteries, including but not limited to the following elements:

(i) Critical materials including battery grade nickel, cobalt and lithium, underlying the supply chain for high-capacity batteries, including electric vehicle batteries;

(ii) Manufacturing and other capabilities necessary to produce high-capacity batteries, including extraction of raw materials, refining, production of advanced cathode and anode powders, separators, electrolytes, current collectors and advanced recycling technologies for high-capacity batteries;

(iii) The availability of the key skill sets and personnel necessary to sustain a competitive U.S. high-capacity batteries ecosystem, including the domestic education and manufacturing workforce skills needed for high-capacity battery manufacturing; the skills gaps therein, and any opportunities to meet future workforce needs;

(iv) Risks or contingencies that may disrupt the high-capacity batteries supply chain (including defense, intelligence, cyber, homeland security, health, climate, environmental, natural, market, economic, geopolitical, human-rights or forced labor risks):

(a) Risks resulting from lack of or failure to develop domestic manufacturing capabilities, including emerging capabilities;

(v) The resilience and capacity of the high-capacity battery supply chain to support national and economic security and emergency preparedness, including:

(a) Manufacturing, recycling, or other needed capacities (including ability to modernize to meet future needs);

(b) Gaps in manufacturing capabilities, including nonexistent, threatened, or single-point-of-failure capabilities, or single or dual suppliers;

(c) Location of key manufacturing and production assets, and risks posed by these assets' physical location;

(d) Exclusive or dominant supply of critical or essential goods and materials by or through nations that are, or may become, unfriendly or unstable;

(e) Availability of substitutes or alternative sources for critical or essential goods and materials;

(f) Need for research and development capacity to sustain leadership in the development of goods and materials critical or essential to high-capacity battery manufacturing;

(g) Current domestic education and manufacturing workforce skills and any identified gaps, opportunities and potential best practices;

(h) Role of transportation systems in supporting the high-capacity battery supply chain and risks associated with these transportation systems;

(i) Risks posed by climate change to the availability, production, or transportation of goods and materials critical to high-capacity manufacturing;

(vi) Potential impact of the failure to sustain or develop elements of the high-capacity supply chain in the United States on other key downstream capabilities. Also, the potential impact of purchases of high-capacity batteries products by downstream customers, including volume and price, product generation and alternate inputs.

(vii) Policy recommendations or suggested executive, legislative, regulatory changes, or actions to ensure a resilient supply chain for high-capacity batteries (*e.g.,* reshoring, nearshoring, or developing domestic suppliers, cooperation with allies to identify or develop alternative supply chains, building redundancy into supply chains, ways to address risks due to vulnerabilities in digital products or climate change).

(viii) Any additional comments relevant to the assessment of the high-capacity batteries manufacturing and advanced packing supply chains required by E.O. 14017.

DOE encourages commenters, when addressing the elements above, to structure their comments using the same text as identifiers for the areas of inquiry to which their comments respond to assist DOE in more easily reviewing and summarizing the comments received in response to these specific comment areas. For example, a commenter submitting comments responsive to (i) critical and essential goods and materials underlying the high-capacity battery supply chain, would use that same text as a heading in the public comment followed by the commenter's specific comments in this area. The RFI (DE–FOA–0002502) is available at: *https://eere-exchange.energy.gov/.*

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

Signing Authority: This document of the Department of Energy was signed on March 23, 2021, by David Howell, Acting Director, Vehicle Technologies Office, Office of Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 23, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–06337 Filed 3–26–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–630–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: Compliance filing OFO Penalty Waiver Request.

Filed Date: 3/19/21.

Accession Number: 20210319–5031.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–631–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Flow Through of Cash-Out Revenues filed on 3–19–21.

Filed Date: 3/19/21.

Accession Number: 20210319–5039.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–632–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Flow Through of Penalty Revenues Report filed on 3–19–21.

Filed Date: 3/19/21.

Accession Number: 20210319–5040.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–633–000.

Applicants: Cheyenne Connector, LLC.

Description: Compliance filing CC 2021–03–19 Annual L&U Report.

Filed Date: 3/19/21.

Accession Number: 20210319–5044.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–634–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) Rate Filing: TPC 2021–03–19 Fuel and L&U Reimbursement and Power Cost Tracker to be effective 5/1/2021.

Filed Date: 3/19/21.

Accession Number: 20210319–5047.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–635–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Filing—Freepoint Commodities LLC to be effective 4/1/2021.

Filed Date: 3/19/21.

Accession Number: 20210319–5133.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–636–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing—Kiowa Power Partners to be effective 4/1/2021.

Filed Date: 3/19/21.

Accession Number: 20210319–5136.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–637–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing—Macquarie Energy LLC to be effective 4/1/2021.

Filed Date: 3/19/21.

Accession Number: 20210319–5137.

Comments Due: 5 p.m. ET 3/31/21.

Docket Numbers: RP21–638–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Filing—Mercuria Energy America to be effective 4/1/2021.

Filed Date: 3/19/21.

Accession Number: 20210319–5140.

Comments Due: 5 p.m. ET 3/31/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06362 Filed 3–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–10–000.

Applicants: NextEra Energy Transmission, LLC, GridLiance West LLC, GridLiance High Plains LLC, GridLiance HeartLand LLC.

Description: Compliance filing to March 18, 2021 Order of NextEra Energy Transmission, LLC, et al.

Filed Date: 3/19/21.

Accession Number: 20210319–5285.

Comments Due: 5 p.m. ET 3/25/21.

Docket Numbers: EC21–66–000.

Applicants: Terra-Gen Power Holdings II, LLC, Energy Capital Partners III, LLC, Golden NA Power Holdings LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Terra-Gen Power Holdings II, LLC, et al.

Filed Date: 3/19/21.

Accession Number: 20210319–5265.

Comments Due: 5 p.m. ET 4/9/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–2115–009.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Compliance Filing in Response to Order issued in ER15–2115–008 (NIPCO) to be effective N/A.

Filed Date: 3/22/21.

Accession Number: 20210322–5107.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER17–2087–005; ER17–1315–007; ER17–1316–004; ER17–1318–004; ER20–2746–001.

Applicants: Hog Creek Wind Project, LLC, Meadow Lake Wind Farm V LLC, Quilt Block Wind Farm LLC, Redbed Plains Wind Farm LLC, Riverstart Solar Park LLC.

Description: Notice of Change in Status of Hog Creek Wind Project, LLC, et al.

Filed Date: 3/19/21.

Accession Number: 20210319–5281.

Comments Due: 5 p.m. ET 4/9/21.

Docket Numbers: ER21–834–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2021–03–22_SA 3599 Deficiency Response to MidAmerican-Heartland Divide FSA to be effective 1/1/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5205.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–836–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2021–03–22_SA 3601 Deficiency Response to MidAmerican-Heartland Divide FSA to be effective 1/1/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5206.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–837–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2021–03–22_SA 3602 Deficiency Response to MidAmerican-Heartland Divide FSA to be effective 1/1/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5208.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–1489–000.

Applicants: Midcontinent Independent System Operator, Inc., MidAmerican Energy Company.

Description: § 205(d) Rate Filing: 2021–03–22_SA 2237 MEC–NIPCO IA (GFA 480) to be effective 3/23/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5092.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–1490–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 5990; Queue No. AF2–265 to be effective 2/18/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5094.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–1491–000.

Applicants: PacifiCorp.

Description: Notice of Cancellation of Rate Schedule No. 274 with Utah Power and Light Company and El Paso Electric Company of PacifiCorp.

Filed Date: 3/19/21.

Accession Number: 20210319–5259.

Comments Due: 5 p.m. ET 4/9/21.

Docket Numbers: ER21–1492–000.

Applicants: Blue Lake Power, LLC.

Description: Request for Limited Waiver of California Independent System Operator Corporation Tariff Provisions of Blue Lake Power, LLC.

Filed Date: 3/19/21.

Accession Number: 20210319–5260.

Comments Due: 5 p.m. ET 4/9/21.

Docket Numbers: ER21–1493–000.

Applicants: El Paso Electric Company.

Description: Notice of Cancellation of Rate Schedule No. 26 with Utah Power and Light Company of El Paso Electric Company.

Filed Date: 3/19/21.

Accession Number: 20210319–5279.

Comments Due: 5 p.m. ET 4/9/21.

Docket Numbers: ER21–1494–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 5987; Queue No. AF2–247 to be effective 2/19/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5163.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–1495–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: EPC Agreement among NYISO, NMPC, Roaring Brook and Flat Rock SA 2598 to be effective 3/8/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5215.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–1496–000.

Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ATSI Submits Revised IA No. 3992 to be effective 5/22/2021.

Filed Date: 3/22/21.

Accession Number: 20210322–5220.
Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: ER21–1497–000.
Applicants: The Empire District Electric Company.
Description: § 205(d) Rate Filing: Amendment to Cost-Based Generation Formula Rate to be effective 5/14/2021.
Filed Date: 3/22/21.
Accession Number: 20210322–5240.
Comments Due: 5 p.m. ET 4/12/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06364 Filed 3–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–60–000]

Arcadia Solar, LLC; WGL Georgia Project Group, LLC; Notice of Petition for Declaratory Order

Take notice that on March 19, 2021, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207, Arcadia Solar, LLC and WGL Georgia Project Group, LLC (Petitioners), filed a petition for declaratory order (Petition) requesting that the Commission issue a declaratory order providing partial waiver from the filing requirement of section 292.203(a)(3) of the Commission's regulations for four qualifying small power production facilities, for varying time periods prior to February 9, 2021, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern time on April 19, 2021.

Dated: March 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06366 Filed 3–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1474–000]

KEI MASS Energy Storage I, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of KEI MASS ENERGY STORAGE I, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 12, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link.

Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06363 Filed 3–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1488–000]

Luna Storage, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Luna Storage, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 12, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 22, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–06365 Filed 3–26–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2015–0688; FRL–10018–27]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment

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: ''Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment'' and identified by EPA ICR No. 1031.12 and OMB Control No. 2070–0017, 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 28, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2015–0688, by 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 Forbes (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0810; email address: *forbes.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: Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment.

ICR number: EPA ICR No. 1031.12.

OMB control number: OMB Control No. 2070–0017.

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: TSCA section 8(c) requires companies that manufacture, process, or distribute chemicals to maintain records of significant adverse reactions to health or the environment alleged to have been caused by such chemicals. Since section 8(c) includes no automatic reporting provision, EPA can obtain and use the information contained in company files only by inspecting those files or requiring reporting of records that relate to specific substances of concern. Therefore, under certain conditions, and using the provisions found in 40 CFR part 717, EPA may require companies to report such allegations to the Agency. EPA uses such information on a case specific basis to corroborate suspected adverse health or environmental effects of chemicals already under review by EPA. The information is also useful to identify trends of adverse effects across the industry that may not be apparent to any one chemical company. This ICR addresses the information reporting and recordkeeping requirements found in 40 CFR part 717.

Responses to the collection of information are mandatory (see 40 CFR part 717). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 8 hours per report. 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 companies that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Estimated total number of potential respondents: 13,160.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.4.

Estimated total annual burden hours: 25,527 hours.

Estimated total annual costs: 1,987,487.00.

III. Are there changes in the estimates from the last approval?

There is an increase in the total cost associated with this ICR as a result in an increase in the wage rate from $1,911,477 to $1,987,487. This change is an adjustment.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. 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 18, 2021.

Michal Freedhoff,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–06417 Filed 3–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OARM–2018–0229; FRL–10021–60–OMS]

Proposed Information Collection Request; Comment Request; Monthly Progress Reports (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Monthly Progress Reports (Renewal) (EPA ICR No. 1039.16, OMB Control No. 2030–0005) 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 is a proposed extension of the ICR, which is currently approved through January 31, 2022. 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 28, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OARM–2018–0229 online using *www.regulations.gov* (our preferred method), by email to *oei.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: Shakethia Allen, Policy Training and Oversight Division, Office of Acquisition Solutions (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–5157; email address: *allen.shakethia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *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 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 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: Appropriate Government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used for various cost-reimbursable and fixed-rate contracts. Per 48 CFR 1552.211 regulations, on a monthly basis the Agency requires contractors to provide the Contracting Officer's Representative (COR) with a report detailing: (a) What was accomplished on the contract for that period, (b) expenditures for the same period of time, and (c) what is expected to be accomplished on the contract for the next month. Responses to the information collection are mandatory for contractors and are required for the contractors to receive monthly payments.

Respondents/affected entities: Private sector.

Respondent's obligation to respond: Mandatory per 48 CFR 1552.211.

Estimated number of respondents: 337 (total).

Frequency of response: Monthly.

Total estimated burden: 97,056 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $9,901,168 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in estimates: There is no change of hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The loaded labor costs were adjusted upwards to account for inflation.

Kimberly Patrick,

Director, Office of Acquisition Solutions.

[FR Doc. 2021–06422 Filed 3–26–21; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 21–63; FCC 21–31; FRS 17848]

Promoting the Deployment of 5G Open Radio Access Networks

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: This Notice of Inquiry (NOI) examines the potential of open and virtualized Radio Access Networks in securing America's communications networks and the communications supply chain, and in driving 5G innovation. Specifically, this NOI seeks comment on what steps, if any, the Commission should take to accelerate the development and deployment of Open Radio Access Networks (Open RAN); any challenges or other considerations related to the testing, deployment, and integration of Open RAN systems and equipment; and the costs and benefits associated with Open RAN development and deployment.

DATES: Interested parties may file comments on or before April 28, 2021; and reply comments on or before May 28, 2021.

ADDRESSES: Interested parties may submit comments, identified by GN Docket No. 21–63, by any of the following methods:

Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/. Follow the instructions for submitting comments.

People With Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

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

FOR FURTHER INFORMATION CONTACT: Jaclyn Rosen, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–0154 or *jaclyn.rosen@fcc.gov,* or Mary Claire York, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–2205 or *maryclaire.york@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Comment Filing Procedures

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Paper filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.

Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health

and safety of individuals, and to mitigate the transmission of COVID–19.[1]

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

Ex Parte Rules

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[2] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Rule 1.1206(b), 47 CFR 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Synopsis

In creating the Federal Communications Commission (FCC or Commission), Congress charged the agency with protecting the safety of life and property and promoting the national defense through wire and radio communication. Over the last decade, actions by Congress, the Executive Branch, and the Commission have repeatedly stressed and prioritized supply chain risk management and the deployment of secure and reliable networks in the United States. The Commission has worked closely with its federal partners on this critical issue and has acted decisively to secure our communications networks and the communications supply chain. Congress has also established that it is ''the policy of the United States to encourage the provision of new technologies and services to the public.''

Open and virtualized radio access networks have the potential to address national security and other concerns that the Commission and other federal stakeholders have raised in recent years about network integrity and supply chain reliability. New startups are entering the original equipment manufacturer marketplace, and many of these companies are located in trusted-partner countries that do not pose national security risks. Network function virtualization and tools like artificial intelligence and machine learning (AI/ML) have the potential to allow for smarter, more efficient network security monitoring. Below, we summarize recent federal actions taken to help secure the communications supply chain and communications networks, either before the emergence of Open RAN or in parallel with these efforts.

A. State of Development and Deployment of Open RAN Solutions

Current Standards and Specifications. We seek comment on the current state of standards and specifications development for 5G and Open RAN. During the last few years, there has been a concerted effort among some organizations to advance the Open RAN model. For example, in 2016 and 2018, respectively, several companies launched the Telecom Infra Project (TIP) and global carriers established the O–RAN Alliance to develop and promote Open RAN reference architectures and protocols that foster vendor interoperability. In May 2020, several major global companies formed the Open RAN Policy Coalition to promote government policies that advance the adoption of open and interoperable RAN technologies. In August 2020, the Open Networking Foundation (ONF), an operator-led consortium advancing innovation in network infrastructure and carrier business models, announced several new initiatives in the Open RAN domain. We seek comment on the state of Open RAN standards development generally and, specifically, on the challenges inherent in developing Open RAN standards and specifications. To what extent are these standard-setting efforts being driven by established large manufacturers, and to what extent are these efforts enabling participation by smaller equipment vendors, smaller mobile network operators, and newer entrants to the marketplace? Are specifications such as eCPRI, the Common Public Radio Interface, a sufficient alternative to Open RAN? Are there any known interoperable multivendor implementations of eCPRI? Are there substantive differences between the eCPRI and Open RAN approaches for disaggregating the network? What steps, if any, should be taken by the Commission to help resolve standard-setting challenges, bolster these efforts, and accelerate the timeline for Open RAN standards and specifications development?

Open RAN Ecosystem. We seek comment on the current state of the Open RAN ecosystem. For example, which companies are offering baseband hardware, network virtualization, packet core functionality, or other network components? How large are each of these companies, in sales or revenues, in each of these applications? How scalable is manufacturing of each of these components to allow for ramp up in production? And how many companies are competing to supply each of the components and applications? What role (if any) will systems integrators play in advancing the deployment of Open RAN systems and what systems integrators are operating in the marketplace today? Will carriers execute their own integration, as Rakuten has done, or buy hosted solutions from other providers? Commenters should identify any gaps or potential bottlenecks in the Open RAN ecosystem. What factors incentivize or disincentivize vendors from developing Open RAN solutions? What are the financial capabilities and funding sources of current or potential vendors to develop such solutions? To what extent does the development of Open RAN solutions by one firm depend on the development of Open RAN by other firms? We seek comment on the current and future opportunities that Open RAN generates for the U.S. wireless infrastructure industry. While U.S. companies do not currently offer an integrated end-to-end network at scale, several U.S. companies supply critical

[1] *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, 35 FCC Rcd 2788 (2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy*.

[2] 47 CFR 1.1200(a). Although the Rules do not generally require *ex parte* presentations to be treated as ''permit but disclose'' in Notice of Inquiry proceedings, *see* 47 CFR 1.1204(b)(1), we exercise our discretion in this instance, and find that the public interest is served by making *ex parte* presentations available to the public, in order to encourage a robust record. *See id.* § 1.1200(a).

components of wireless networks, including semiconductors, end user devices, and core network elements. Does this suggest that U.S. companies are well positioned to compete in a modular market? More specifically, we seek comment and data on whether and, if so, how many U.S. companies or vendors can manufacture and/or supply Open RAN sub-components, including radios, at the scale necessary to compete both domestically and internationally with traditional network equipment vendors. How many U.S. companies have the knowledge and resources to begin manufacturing Open RAN components and applications in the near future? What are the projected market shares of the U.S. companies at the aggregate level in the U.S. wireless network equipment market if Open RAN were widely adopted? Are there any components or applications for which there currently are no U.S. suppliers?

Domestic Deployments. We seek comment on the current state of Open RAN deployments in the U.S. To what extent are these solutions commercially available today? While DISH has not announced a launch date, it is currently building the first nationwide cloud-native, Open RAN-based 5G broadband network. Inland Cellular, a rural mobile wireless service provider that serves more than 35,000 subscribers in Idaho and Washington, is reportedly deploying an Open RAN system that will cut per site cost by approximately 40 percent. Verizon Wireless has reportedly deployed vRAN equipment as part of its 5G network. What other U.S. companies are planning or otherwise participating in Open RAN deployments? How close is the U.S. to being ready for large-scale deployments? Has Open RAN delivered an integrated and truly interoperable end-to-end process in the United States yet? Commenters should discuss previous and current efforts to deploy Open RAN in the U.S., as well as any expected plans to deploy in the future, including information on the costs of any deployments considered. We seek comment on which mobile network operators or original equipment manufacturers are likely and not likely to adopt Open RAN. What factors are preventing, impeding, or discouraging Open RAN deployments? What steps should be taken by the Commission, other federal partners, industry, academia, or others to resolve these issues, address these concerns, and accelerate the timeline for Open RAN deployment?

International Deployments. Similarly to the United States, several countries have stressed the importance of securing their communications networks and communications supply chains. The United Kingdom has established a 5G Supply Chain Diversification Strategy to ensure the telecom supply chain remains resilient to future trends and threats, and French suppliers are being prioritized to help the French government reduce its dependence on Huawei. Several countries believe that Open RAN can offer a solution to security issues affecting the communications network supply chain. The German government, for example, is expected to spend 2 billion euros to reduce dependency on Huawei and to prioritize Open RAN research, development, and deployments.

In response to government policies and demand for more secure solutions, operators worldwide are developing and deploying Open RAN architectures at an increasing rate. For example, in Asia, Rakuten maintains it was one of the first companies to utilize Open RAN as part of its new fully virtualized cloud network in Japan, and Bharti Airtel and Vodafone Idea have been at the forefront of Open RAN deployments in India. In Europe, four major carriers—Vodafone Group Plc, Telefonica S.A., Deutsche Telekom AG, and Orange S.A.—signed a Memorandum of Understanding signaling their commitment to deploy Open RAN solutions across Europe. In Africa, Vodafone has conducted early field trials, and, in July 2020, Orange announced a multi-country program to extend their current coverage with Open RAN solutions, including to the Central African Republic. In Latin America, the TIP, Instituto Nacional de Telecomunicacoes (Inatel), and Telecom Italia Mobile (TIM) Brasil launched the Open Field program in Brazil to develop and test Open RAN solutions in the field.

As countries and operators worldwide are beginning to coalesce around the Open RAN model, we seek comment on what lessons can be learned from successful deployments, previous failed deployments, and development efforts being undertaken in other countries. What has been learned about deploying Open RAN systems using existing generations of networks and in low-income and rural environments? What challenges have these operators faced in developing and deploying Open RAN systems? Is there anything about the U.S. wireless network industry, spectrum policies (*e.g.,* availability of greenfield spectrum), or geographical or other factors that present unique challenges to Open RAN deployment? What steps can the Commission take to encourage timely and secure domestic deployments? What implications do international efforts like the European Memorandum of Understanding have for U.S. leadership in this area?

B. Potential Public Interest Benefits in Promoting Development and Deployment of Open RAN

Increased Competition and Network Vendor Diversity. We seek comment generally on the effect of Open RAN on market entry, vendor diversity, and competition in the wireless network equipment industry. We seek comment on the current state of competition in the wireless network equipment industry generally and in the markets for various components and applications. In particular, we seek comment on whether and how the current market structure in the traditional RAN sector may impact or affect the deployment and adoption of Open RAN solutions. How many options are available to carriers in selecting equipment manufacturers? How interoperable is this RAN equipment, if at all, with other hardware and software? Is this equipment or software proprietary? What restrictions, if any, do equipment manufacturers place on wireless carriers' equipment choices or options? Similarly, do equipment manufacturers place any restrictions on their upstream suppliers in terms of dealing with Open RAN providers? What affect do such restrictions have on competition and Open RAN deployment and adoption?

What are the effects of competition in the industry, and would transitioning to Open RAN resolve, ameliorate, or worsen these issues? Specifically, would increased competition in the wireless network equipment marketplace result in lower costs for operators? Commenters advocating this position should explain why and should estimate the likely cost reductions. For instance, does Open RAN eliminate or minimize the costs associated with developing a proprietary end-to-end network or deploying and maintaining single-vendor hardware? What benefits can be gained by access to interoperable networks? On the other hand, would there be any additional costs to operators from having to use Open RAN versus alternative technologies? For example, are there any additional costs required for integrating the Open RAN system?

We also seek this information on the firms that supply various network components and applications of 5G RAN networks and their market shares in each of the segments. We seek comment on the relationships between and among firms in this industry, including but not limited to supplier

relationships, equity investments, and joint ventures or partnerships. Commenters should also describe the extent to which the cost, quality, and/or capabilities of competing components and applications differ. We seek comment on vertical supply chain relationships in the telecommunications networking equipment market, and on the potential effects of current market conditions on the demand for and deployment of Open RAN solutions. Commenters should identify barriers to entry or market conditions that may affect or impede the deployment and adoption of Open RAN solutions now or in the future. Do current market conditions or barriers to entry warrant specific regulatory intervention? If so, commenters should describe what measures the Commission should take, as well as the legal basis for Commission action.

We seek comment on the current and projected demand for Open RAN and its expected market share, as a proxy for predicting the level of competition in the Open RAN supply chain. By some estimates, Open RAN currently captures 9.4% of the total 4G and 5G market. Is the current market share a reflection of actual demand, or is it the result of regulatory or other barriers that may be impeding or delaying widespread adoption and deployment? Is market share likely to change in the future? Is there a threshold for market share at which the effectiveness of diffusion of Open RAN would rapidly increase? What are the anticipated diffusion rates over the next 5 years under current market conditions? We seek comment on whether the pace of Open RAN adoption should influence policies the Commission adopts, or whether the Commission should adopt policies to accelerate the pace of adoption. We also seek comment on any adverse effects and costs of policies advocated by commenters, such as the extra burden on network operations that the policies may cause.

What factors may incentivize or disincentivize operators from adopting Open RAN technologies? How would adoption by one firm impact adoption by other firms? To what extent does Open RAN technology exhibit economies of scale, network effects, or learning curves? If the benefits of Open RAN can only be realized by economies of scale, should the Commission provide funding or incentives to operators that choose to implement such systems in their wireless networks? To what extent might government-funded incentives or other regulatory intervention ease any of the costs or barriers to adopting Open RAN? For example, the Indian government is currently drafting procurement regulations for its next generation networks and is expected to offer preference to domestic suppliers. In Japan, the government is providing tax incentives to products with open and interoperable interfaces, and the UK government announced a 28 million euro investment in 5G products, with more than one-half utilizing Open RAN. Should we adopt similar regulatory measures or incentives? Are other actions necessary to level the playing field for new Open RAN suppliers that are competing against entrenched traditional vendors with decades of experience? For instance, should we amend, forbear from applying, or eliminate any of our rules that inadvertently support a single-vendor approach, a specific technology (*e.g.,* closed radio access networks), or otherwise inhibit the development and adoption of Open RAN solutions? Are there any components or factors of an Open RAN system that are or could be hindered by a single or limited vendor supply? How can we facilitate a competitive marketplace where essential pieces of an Open RAN architecture are not controlled by a limited number of entities?

We seek comment on whether Open RAN is likely to create opportunities for new entrants in the original equipment manufacturer markets. Specifically, we seek comment on whether and, if so, which aspects of, the Open RAN architecture promote vendor diversity and competition. Open RAN works by disaggregating software applications from the underlying hardware infrastructure and replacing proprietary interfaces between baseband components with open, standards-based interfaces. Would the disaggregated nature of Open RAN lower the costs of entry by allowing vendors to develop distinct components of the network (*e.g.,* hardware, software, silicon), rather than having to build the integrated end-to-end system, which can be a costly undertaking? Does the interoperable nature of Open RAN facilitate market entry by allowing vendors to develop specific components of the network for use by multiple operators rather than creating unique one-off solutions for specific operators? What specific firms or what kind of firms would be likely entrants, and how are they likely to perform as competitors against incumbents? Which segments are they likely to enter, and what kind of products are they likely to develop? Are there likely to be international entrants in addition to domestic entrants? Commenters should discuss other aspects of the Open RAN architecture that may lower the barriers to entry and otherwise facilitate market entry.

We also seek comment on how Open RAN could encourage innovation by American companies, and how to anticipate, identify, and evaluate potential issues that might stifle innovation, manufacturing, and deployment. For example, is there a sufficient workforce in place with the training to safely and efficiently install Open RAN equipment? If not, how quickly could such workers be trained? Are there steps the Commission or other federal agencies should take to address an increase in the supply of trained workers needed to close such a gap? Under an open-source or open-interface model, will businesses be able to stay financially viable? How will access to intellectual property and patents influence the ability to innovate? Can U.S. operators continue to achieve the same level of features and performance at scale with Open RAN that customers currently enjoy with existing infrastructure? Will technological developments in Open RAN benefit innovation in other technologies? We seek comment on these questions as well as comment generally on whether the Commission or other entities could or should plan for and mitigate foreseeable roadblocks.

Affordability of Services and Products for Consumers. We seek comment on the potential costs and benefits of Open RAN on consumers in the next-generation wireless network marketplace. If Open RAN lowers the overall hardware and deployment costs for operators, are those cost savings likely to pass through to consumers in the form of lower, more competitive prices for next-generation wireless services? How might Open RAN affect the price of services and products for consumers, if at all? If the federal government provides incentives for a transition in architecture, how can we ensure these cost savings find their way to the consumer? Commenters should discuss the potential effect of Open RAN on the affordability of end-user services and products. In particular, commenters should discuss how Open RAN might affect the affordability of services and products for the most vulnerable consumers, including rural and low-income Americans.

Network Security and Public Safety. Several countries have recognized Open RAN as a potential solution to the increasing security threats posed to their nation's communications supply chains. For example, as previously discussed, the German government is expected to

spend two billion euros to reduce its dependency on Huawei by prioritizing Open RAN research, development, and deployments. France has adopted a similar policy. Through open disaggregation of the RAN, Open RAN is intended to enable the use of interchangeable modular technologies, as well as AI/ML, to promote, among other things, network security and public safety. O–RAN Alliance argues that the design of Open RAN, along with the potential for leveraging open-source software, should improve supply chain security.

To what extent does Open RAN address supply chain risk management issues and enable the deployment of secure and reliable networks in the United States? Does the disaggregated nature of Open RAN facilitate market entry by additional vendors and therefore offer viable alternatives to the use of equipment from untrusted vendors in the telecommunications supply chain (*e.g.,* Huawei and ZTE)? Would Open RAN mitigate operators' reliance on specific vendors, allowing them to secure a back-up supplier or otherwise eliminate lock-in problems resulting from a consolidated equipment marketplace? How would an increase in the number of vendors supplying components for Open RAN affect the 5G vendor management ecosystem? Would the use of Open RAN software facilitate the rapid removal of vendors' equipment when they were identified as untrusted? Would a supply chain of Open RAN software vendors that excludes untrusted entities obviate concerns of that software running over hardware of an untrusted vendor? Can additional criteria be defined to assist in identifying what is an untrusted vendor, beyond frameworks such as the Prague Proposals, EU Toolbox for 5G Security, or the Center for Strategic and International Studies Criteria? We seek information on the risk of security breaches, including the frequency of such breaches and the magnitude of potential economic damages on closed RAN networks, and how this security risk could be addressed by Open RAN. We seek comment on the potential impact of Open RAN on public safety communications. What potential benefits would Open RAN provide for public safety communications and emergency communications, such as 911 or wireless emergency alerting overall? To what extent would Open RAN impact the required location accuracy of 911 calls? How and to what extent would Open RAN facilitate interoperability for public safety communications, especially as state and local 911 systems transition to IP-based networks, such as Next Generation 911 (NG 911)? Similarly, how would Open RAN enhance interoperability with respect to NG 911, the First Responder Network (FirstNet), or priority services, such as wireless priority services? How could Open RAN reduce the overall frequency and duration of communications outages on networks that carry 911 and other emergency communications? What impact, if any, will the deployment of Open RAN systems have on existing signal boosters used to ensure adequate in-building coverage?

Open-Source Software. Open-source software ''includes operating systems, applications, and programs in which the source code is published and made available to the public, enabling anyone to copy, modify and redistribute that code.'' Open RAN can leverage open-source software for network functions and network management. Open-source software draws from a larger and more diverse set of reviewers compared to that of a closed RAN architecture. What are the potential benefits or advantages associated with the use of open-source software in Open RAN environments? For instance, does open-source software result in a well-vetted, more secure finished product? How can these benefits be most effectively realized, and what role can the Commission play in maximizing these benefits? What are the disadvantages to using open-source software in Open RAN environments and how can they be mitigated?

Potential Technological Benefits of Open RAN Deployment. Proponents of Open RAN argue that features such as end-to-end network slicing, edge computing, and machine learning-based network optimization methods may be better enabled by standards-based architectures. Further, they contend that an open architecture could improve the controllability and overall performance of cellular networks that are increasingly heterogenous and distributed, aggregate spectrum in different frequency bands, and use small-cell architectures. We seek comment on these views, and specifically on quantifying the improvement in spectral efficiency and performance under the Open RAN architecture as compared with a closed system.

One of the promised benefits of an Open RAN architecture is the ability to apply AI/ML techniques to optimizing radio resource management, since the interfaces between different elements of the network will be available for real-time control. Proponents argue this would be especially beneficial in network slicing to guarantee end-to-end Quality-of-Service to disparate applications that are allocated resources over the network. The complexity of wireless networks makes manual control and optimization inefficient, leading to wasted resources along multiple axes—spectrum, computing, and infrastructure. Open RAN proponents claim that AI/ML algorithms are increasingly being used even in the current RAN, and that an Open RAN architecture may enable improved performance by offering improved visibility to intermediate nodes within the RAN.

Advanced wireless networks, including 5G, may be used for ''vertical'' applications outside of traditional telecommunications networking, such as smart cities, automotive, telehealth, and energy. The network slicing and other features of an Open RAN architecture could better enable very different application suites to run on the same hardware stack. We seek comment on the benefits outlined above and what role the Commission should play in facilitating these benefits. We also seek comment on the status and viability of these benefits and ask commenters to quantify the value of such benefits. Are they available now, and if not, how long until the various benefits outlined above become viable? Are these benefits primarily (or exclusively) the result of Open RAN architecture or will they also result from 5G or other advanced wireless networks deployed using traditional network equipment? What are the potential obstacles or disadvantages of the technologies and approaches discussed above?

Radiofrequency spectrum is anticipated to be a key enabler for a variety of public ecosystems including aviation, marine, and land-based transportation infrastructure. Private sector initiatives are being organized that focus on advancing 5G innovation, such as MITRE Engenuity, which has created the Open Generation Consortium to drive 5G innovation, with an initial focus on 5G-equipped drones. The advancement of 5G use cases for drones and other applications may face technological and regulatory barriers, and we seek comment on the barriers to the emerging ecosystem of Unmanned Aircraft Systems (UASs) as it relates to network equipment and architecture. MITRE suggested at the FCC's September 2020 Forum on 5G Open Radio Access Networks that the UAS industry could be an attractive focus for Open RAN. Furthermore, the TAC has recommended a pilot program focused on the evolving UAS use case. We seek comment on what network

architecture issues need to be addressed to meet these challenges and how we might address any such challenges. We seek comment on this topic generally and, in particular, on the steps that the Commission could take to promote and advance the application of 5G Open RAN to the emerging UAS ecosystem.

Artificial Intelligence and Machine Learning. Using Open RAN may also enable providers to take advantage of AI and ML from sources other than a proprietary RAN vendor. The O–RAN Alliance contends that AI and ML enable the optimization of RAN configurations in real-time based on learning technologies that accumulate information over time. We seek comment on what steps industry, the Commission, or other organizations can take to promote the development and use of AI and ML to support and enhance the security features of an Open RAN deployment. Can AI and ML be harnessed to identify and remediate malicious changes in configuration or otherwise detect intrusions and vulnerabilities in an Open RAN platform? Are additional standards and Application Layer Interfaces (API) needed to ensure the development of security-based AI/ML features in Open RAN technologies? What other benefits and challenges exist regarding the use of AI and ML in our communications infrastructure and how do we balance those with potential privacy issues?

Virtualized Operating Environment. Proponents argue that Open RAN's use of virtualized environments with containers offers additional operational and security advantages. Software virtualization could enable applications and operating environments to be isolated from each other. Containerization could allow multiple vendors to develop their products for the same Open RAN platform, and could encourage competition between vendors, thus driving down costs for the provider. Are there other advantages of virtualization in the context of security (*e.g.,* data privacy, or protection of computer resources assigned to an Open RAN application)? What are the disadvantages and can they be addressed? We note that the Distributed Management Task Force is a standards body focusing on emerging IT infrastructures like cloud computing and virtualization. Are additional industry standards needed to facilitate various virtualization platforms for different hardware used to support Open RAN functionality and security?

C. Additional Considerations Regarding Open RAN Development and Deployment

Disaggregation/Need for a System Integrator. If the flexibility created by disaggregation of the RAN has potential benefits, would it also make the deployment of the Open RAN more complex than deployment of a closed RAN because different components must be seamlessly integrated? Since the different Open RAN components may be supplied by different vendors, how would operators resolve compatibility problems that arise during deployment, in spite of standardized interfaces being specified?

We seek information on the practical implications of the disaggregation of the components of the RAN. How difficult will it be to ensure that the components of the Open RAN seamlessly operate together? Will testing of the Open RAN deployment be a time-consuming and complicated process compared to a proprietary closed RAN? Have Open RAN deployments to date demonstrated comparable performance to 4G and 5G systems employing a traditional RAN architecture? Is the performance of Open RAN systems likely to be impacted due to the multi-vendor environment? Will network operators have the resources to manage the deployment of Open RAN technology into their networks? Is this a task that smaller network operators can successfully manage? What institutional requirements and associated costs are required to support system integration? What role will system integrators perform in deployment of Open RAN technology?

Network Security and Public Safety. Could Open RAN architecture expose new security vulnerabilities that might not otherwise exist in a more closed architecture? If open-source software fosters collaborative development among many stakeholders, does this enable a greater number of stakeholders to potentially discover vulnerabilities that might not otherwise be exposed and mitigated in closed systems? Or would the introduction of a greater number of stakeholders introduce vulnerabilities if appropriate care is not taken and software is not fully vetted by vendors or operators that choose to use open-software? Does Open RAN introduce further issues raised by compromised trusted vendors, such as those that occurred during the SolarWinds breach?

Does Open RAN introduce any risks to the security and integrity of public safety communications? We seek comment on whether public facing infrastructures, like the RAN, are or may become an ideal target for bad actors to disrupt vital communications that rely on interoperability, such as 911, E–911, and NG 911 services (collectively referred to as 911). Similarly, is there a risk that prioritized public safety communications, such as those provided by FirstNet or the Wireless Priority Service, could also be subject to disruption from bad actors exploiting vulnerabilities in Open RAN that may not exist in a proprietary traditional RAN? Conversely, can Open RAN solutions remediate known vulnerabilities, such as False Base Stations, in proprietary RANs? We seek comment on whether and, if so, how the use of Open RAN may introduce new and heightened security risks to the 911 system. Are these risks particularly heightened by the 911 system's interdependence with originating service providers, the continued operation of legacy public safety access points or emergency communications centers, and the ongoing migration of 911 services to NG 911? For example, it is commonly understood that security functions (like data encryption) to protect data traversing through the IP-based networks do not function or are unavailable as the data travel through legacy network elements. Does the use of Open RAN exacerbate these concerns? Specifically, what other ways might the enhanced interconnectedness fostered by Open RAN increase the cyberthreat attack surface to 911 services? To what extent might Open RAN exacerbate the potential cyber threat from legacy public safety answering points that operate in hybrid environments? To the extent Open RAN introduces risks to public safety communications, what steps can be taken by stakeholders or the Commission to eliminate or mitigate these concerns? We also ask commenters to estimate the potential costs associated with the risk mitigation related to public safety arising from Open RAN development.

Do the attributes of Open RAN that support its versatility to identify, isolate, and remediate security risks or threats in the service architecture also highlight its potential security vulnerabilities? To what extent could use of Open RAN make the network more vulnerable to cyberthreats or unanticipated failures compared to a traditional mobile networking approach? Is there a risk that Open RAN vendors may not yet have the processes in place to address quickly and efficiently possible gaps or bugs that could otherwise be exploited by bad actors? Are accountability and trust

reduced in environments with multiple vendors? What steps should we take to promote the diversity of vendors, while ensuring a high standard of security and trust similar to that provided by proprietary end-to-end solutions? Is there a heightened or new security risk introduced by relying on a few established and new suppliers with shorter track records? Technologies associated with Open RAN impact stakeholders across the supply chain, as well as in industries that rely on safe and reliable communications networks. What industry guidelines or standards are in place to ensure vendors remain accountable for their products and service? Beyond industry standards, what role, if any, does the Commission have in holding vendors accountable for their products, especially in systems with components sourced from multiple vendors? Are the Commission's existing equipment authorization rules sufficient to perform this role? We seek comment on these issues.

Moreover, does the disaggregated nature of Open RAN emphasize the importance of adhering to 5G security specifications in both open and closed systems, since security considerations of these components already are defined in the 3GPP standards? Although use of open-source software may be a prominent feature of Open RAN, many 5G vendors and operators already rely on open-source software to accelerate delivery of digital innovation. We seek comment on the effects of open-source software on network security from entities that have already deployed some variation of open-source software.

Open-Source Software Vulnerabilities. As noted earlier, the source code for open-source software is made available to the public, enabling anyone to copy, modify, or redistribute that code. Does this openness also introduce new risks to the network? Does the variety and diversity of open-source software options increase the possibility of incompatibilities in the system or make it more vulnerable to hacking or other vulnerabilities? To what extent are stakeholders applying inventory management of open-source components, code management systems, testing of open-source code, and security frameworks to mitigate open-source risks as recommended by CSRIC? We seek comment on whether the process for reviewing and accepting contributions to open-source software platforms may affect the security of Open RAN. For example, who verifies the integrity of those who seek to change the code? Are there existing criteria or processes used to select reviewers, and what processes are there to ensure that contributions made to change or edit the source code comport with existing security standards? For example, to what extent are Common Vulnerabilities and Exposures (CVEs) against open-source software components monitored? What safeguards and protocols are in place to thwart bad actors? To the extent that safeguards exist, are they implemented to meet the security standards expected by enterprises and service providers? Are there other risk factors we should be considering? An analysis of the benefits and challenges coupled with ideas on how the Commission can support more secure, efficient, and resilient architectures should be provided while addressing this topic.

Risks of a Virtualized Operating Environment. Virtualization isolates applications from each other, thus minimizing or even eliminating their disruption on other applications running in other isolated containers. Is there a risk, however, that actors with unrestricted access to the operating system of the device, often referred to as root access, can bypass the intrinsic security virtualization and can access and/or alter any file, data, applications running on that hardware platform? We seek comment on the security vulnerabilities of the operating environment of virtualized software. Can vendors or providers protect against impermissible root access to the operating system if the hardware is produced by an untrusted source? What credentialing, safeguards, or general operating standards exist to ensure that an actor with root access cannot abuse root access for malicious means. Another attack vector created by virtualization is side-channel attacks, where one container can learn information from an unrelated container. Are there mitigations to side-channel attacks? Are these mitigations in common use? If not, what is inhibiting their use? We ask commenters to estimate the costs associated with risk mitigation related to commercial applicants arising from Open RAN deployment.

Artificial Intelligence and Machine Learning. Some entities claim that using AI and ML in any product present the risk of false positives (*i.e.,* an indication that a condition, such as a network intrusion or malware, exists when in fact it does not). Correcting false positives requires the input of time and human resources to investigate, and the remediation of a false problem or incorrectly configured optimization scheme might result in a service outage or other denial of service. Should AI/ML be leveraged to support and enhance the security features of an Open RAN deployment? If so, how?

Barriers to Adoption by Established Operators. Are the potential benefits of Open RAN, described above, available only in a greenfield deployment? Commenters should discuss the relative and absolute costs of incorporating Open RAN components into an established network. How can established RANs incorporate elements of Open RAN without replacing the entire network? Are there any obstacles that overlaying an Open RAN network on top of an existing early-generation closed network create? How scalable is the Open RAN concept to multi-gigabit wireless networks, such as non-standalone, millimeter-wave 5G cellular networks deployed in the U.S. that rely upon legacy, 4G LTE components? Do the potential cost reductions and performance enhancements due to disaggregation disappear once the costs of end-to-end multi-vendor interoperability testing are accounted for? Will this innovation and flexibility also maintain the stable operating environment that suppliers and consumers expect and demand of the nation's communications infrastructure?

Other Considerations. Are there any other factors to take into account when considering the viability and extent of open and virtualized RAN deployments? Will the fronthaul and midhaul between disaggregated units in the radio access network limit the deployment of Open RAN cell sites to areas where fiber or other high-capacity connections are available? Will the availability of fronthaul and midhaul options limit deployment of Open RAN networks to more densely populated areas? According to press reports, some original equipment manufacturers have expressed concerns regarding the energy efficiency of Open RAN equipment. Are these concerns valid? If so, what steps could potentially be taken to reduce the energy consumption associated with this equipment? Are there other issues associated with deployment of open and/or virtualized RAN equipment that we should be aware of?

D. Potential Commission Efforts To Promote Development and Deployment

Identify Potential Barriers. Assuming we find that Open RAN could provide substantial public interest benefits, and subject to the cost-benefit considerations outlined below, we seek comment on whether we should enact rules, consistent with the Commission's rulemaking authority under current statutes, to promote reliability, interoperability, and adoption of Open RAN systems. Are Commission actions

warranted to support the development of Open RAN standards? How can the Commission best harness industry experts to understand regulatory constraints impacting Open RAN deployments and the most appropriate regulatory approach moving forward? Commenters should identify aspects of the Open RAN system that require streamlined rules and a harmonized regulatory framework.

We seek comment on whether any of our existing rules impede Open RAN investment and development. Commenters should identify existing regulatory barriers hindering the continued development and proliferation of Open RAN solutions. We ask commenters to identify regulations that are outdated or unnecessarily burdensome to the development and deployment of Open RAN technologies, and whether the Commission should update, forbear from applying, or eliminate any of our existing rules in order to best serve the public interest. We also seek comment on whether there are any market inefficiencies that could be addressed by changes to the Commission's rules.

Testbeds and Demonstration Projects. In 2013, the Commission adopted rules creating the opportunity for expanded experimentation through Program experimental licenses and Innovation Zones. Under a Program experimental license, qualified institutions may conduct testing for multiple non-related experiments under a single authorization within a defined geographic area under control of the licensee and where the licensee has institutional processes to manage and oversee experiments. The Innovation Zone takes this concept a step further by effectively providing an extension of a Program Experimental License's authorized area of operation. Such licensees are permitted to operate within an Innovation Zone, under the parameters set for that particular Zone, without having to modify their licenses to cover the new location. Innovation Zones can be created in response to a particular request or on the Commission's own motion. The Commission has established two Innovation Zones—in New York City and Salt Lake City—to test new advanced technologies and prototype networks outside a traditional small campus or laboratory setting, including those that can support 5G technologies. These Innovation Zones permit experimentation across a wide variety of spectrum bands encompassing both non-federal and federal or shared allocations at power levels commensurate with commercial service. Could these Innovation Zones, either the two already created or new zones, provide opportunities to test and verify the security and operational benefits associated with Open RAN technology? Could Innovation Zones also be used to test and adjust various Open RAN parameters to optimize its implementation? We seek comment on these issues. Are there adjustments that we might need to make to these Innovation Zones to better enable Open RAN technology testing? Should other testbeds be established for this purpose? Should the Commission encourage or require the interconnection of testbeds to better simulate the challenges of actual network deployments? Are there other features of Open RAN technology that should be explored through such testbeds or demonstration projects? For example, can such testbeds be used to evaluate system integration issues in mixed vendor environments both in terms of different Open RAN vendor equipment and a mix of Open RAN and more traditional network equipment operating in close proximity? Are there funding mechanisms in place for researchers to conduct the testing needed to advance Open RAN technology to a maturity level sufficient for widespread commercial deployment? How can the Commission incentivize stakeholder participation in testbeds and/or demonstration projects? What features of such programs would attract stakeholder participation by increasing potential gains and reducing potential risks of participation? What other steps can the Commission take or programs can it establish to encourage and enable development and testing of Open RAN technology?

Moreover, should the Commission have any role in promoting, developing, or testing of Open RAN equipment? Are there any actions that the Commission should take to facilitate the integration and testing of Open RAN technology? How can the Commission encourage the development of Open RAN security and reliability? Could this involve the adoption of performance standards or other rules for Open RAN equipment? Should the Commission support research and development of technologies useful for Open RAN development? If so, how? If the Commission were to support Open RAN research and development activities, what types of technologies would be most useful to facilitate Open RAN adoption? Should the Commission sponsor Open RAN plugfests, either on its own or in partnership with other organizations, to encourage the development of interoperable Open RAN equipment and demonstrate its capabilities? What other actions can the Commission take to demonstrate and test the functionality of Open RAN network equipment? Finally, what timeframes are realistic for the completion of any study or analysis conducted as part of Open RAN network equipment being deployed in a testbed environment?

USF/Rip and Replace. The *Supply Chain Second R&O* created the Reimbursement Program, which will ''reimburse the costs reasonably incurred by providers of advanced communications services . . . to permanently remove, replace, and dispose of covered communications equipment and services from their networks.'' In adopting the Reimbursement Program, the Commission recognized that ''a certain level of technological upgrade is inevitable . . .'' when replacing older technology. Thus, the Commission's Reimbursement Program permits ''participants to obtain reimbursement for reasonable costs incurred for replacing older mobile wireless networks with fourth generation Long Term Evolution (4G LTE) equipment or services that are 5G ready.'' While the Commission expected providers to ''obtain the lowest-cost equipment that most closely replaces their existing equipment . . . ,'' it recognized that ''replacement of older legacy technology will inevitably require the use of newer equipment and services that have additional capabilities.'' This position is consistent with both Congressional intent, which ''expects there to be a transition from 3G to 4G or even 5G-ready equipment in instances where equipment being replaced was initially deployed several years ago,'' and with market developments which indicate ''new equipment supporting older, second- and third[-]generation wireless technology services is unavailable, and even acquiring such equipment and services on the secondary market is proving increasingly difficult and in some instances impossible.'' Thus, providers may have an opportunity to replace the non-secure equipment and services, consistent with the *Supply Chain Second R&O,* with Open RAN equipment and services that could work in a multi-vendor network and architecture. Given the potential advantages of Open RAN technology and virtualized components in a multi-vendor network solution, we seek comment on whether we should take additional steps to support this deployment.

Section 4(d)(1) of the Secure Networks Act directs the Commission to

create a list of suggested replacements (Replacement List) for the equipment and services being removed, replaced, and destroyed. The Replacement List must include ''both physical and virtual communications equipment, applications and management software, and services or categories of replacements of both physical and virtual communications equipment, application and management software and services.'' Importantly, this list must be ''technology neutral.'' In the Secure Networks Act, Congress explicitly supported the potential inclusion of services such as Open RAN and virtualized network equipment on the Replacement List ''to the extent that the Commission determines that communications services can serve as an adequate substitute for the installation of communications equipment.'' The Commission made such a finding in the *Supply Chain Second R&O.* Thus, Open RAN and other services are eligible to be included on the Replacement List and the Commission encouraged ''providers participating in the Reimbursement Program to consider this promising technology'' along with other technologies as they make their procurement decisions.

While the Replacement List is only a ''suggested'' list for the types of equipment and services providers may use to secure their networks, we believe including Open RAN and other virtualized equipment and services could help promote Open RAN development and deployment. Are there additional actions the Commission could take to encourage deployment and development of Open RAN through the Replacement List? If so, what precise actions should the Commission take? What would be the likely outcome? How can the Commission support and encourage the deployment and development of Open RAN through the Replacement List while also complying with the obligation in the Secure Networks Act that the Replacement List be technology neutral? Specifically, we seek comment on whether it is possible to comply with the requirement that the Replacement List be technologically neutral, while also supporting the growth and development of new technologies. In the event the Commission took additional steps to encourage the deployment and development of Open RAN through the Replacement List, what are the potential impacts to the Reimbursement Program? How would these steps impact the deployment and development of Open RAN?

The *Supply Chain Second R&O* allowed providers of advanced communications service to begin removing non-secure equipment now while being reimbursed once the Reimbursement Program is ready to accept applications. We seek comment on whether providers of advanced communications services, especially small providers, are adopting Open RAN or virtualized solutions as they replace covered equipment in their networks. We also seek comment on whether providers that have not begun the remove and replace process are considering or deploying equipment that could support or be upgraded to support Open RAN or virtualized equipment in the future? We seek comment on what steps the Commission could take to encourage providers to deploy Open RAN technology. If providers are not considering Open RAN, or are hesitant to deploy Open RAN and virtualized technology, we seek comment on why and on what steps the Commission could and should take to encourage providers of advanced communications service, especially small providers, to consider or select Open RAN as part of the technological offerings available for replacement going forward. The Secure Networks Act imposes short deadlines to make certain the remove and replace process is completed expeditiously. However, the Secure Networks Act also allows for an individual extension of a provider's deadline in limited circumstances. Could the Commission grant an extension for providers seeking to deploy Open RAN or virtualized network equipment and services? Would such an extension incentivize providers to deploy Open RAN? We seek comment on whether granting extensions in this manner would be consistent with the Secure Networks Act. We also seek comment on whether the Reimbursement Program affords us any other opportunities to encourage the deployment or development of Open RAN technology beyond the Replacement List. The Secure Networks Act does not expressly prohibit the Commission from encouraging providers who choose to replace the covered equipment and services in their networks with any particular type of replacement equipment. The technological neutrality obligation is expressly limited to the items included in the Replacement List. Can the Commission offer any additional incentives to Reimbursement Program participants who choose to replace their covered equipment or services with Open RAN technology? If so, what types of incentives would most benefit such providers? Is the Open RAN technology sufficiently developed where providers of advanced communications services can purchase this equipment or services on the open market? Does the cost to providers make this equipment or these services competitive with other types of equipment or services? We expect that providers may incur increased upfront costs for this equipment. Would any increased upfront purchase costs be offset by reduced costs elsewhere, such as reduced maintenance costs needed to support a virtualized network? Are there other costs that could be covered by the Reimbursement Program? Can the Reimbursement Program cover the expenses for system integrators to configure the network infrastructure for many carriers? What other expenses will providers deploying Open RAN encounter? We also seek comment on whether this technology simply would replace the non-secure equipment and services being removed from communications networks, or whether it would require different infrastructure that would further burden providers or the Reimbursement Program.

Finally, we seek comment on whether other Universal Service Fund support can be used to incentivize the development and deployment of Open RAN or virtualized systems. One of the Commission's central missions is to make ''available . . . to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.'' As the Commission has observed, with the passage of the Telecommunications Act of 1996, Congress ''directed the Commission and states to take steps necessary to establish support mechanisms to ensure delivery of affordable telecommunications services to all Americans, including low-income consumers, eligible schools and libraries, and rural health care providers.'' Specifically, Congress set forth certain specific principles for universal service advancement. The Commission has followed these principles in establishing and occasionally reforming its Universal Service policies, including efforts to ''ensure[ ] that all consumers . . . benefit from the historic transitions that are transforming our nation's communications services.'' How would supporting Open RAN further the section 254(b) principles, upon which the Commission must base its universal service policies? For example, would Open RAN technologies increase the

economic incentives for carriers to deploy 5G services in underserved communities, such as rural areas and low-income neighborhoods?

Operational/Service Rules. We note that the Commission has traditionally adopted a policy of technology neutrality and we seek comment on whether changes are necessary to ensure our rules remain technologically and competitively neutral as Open RAN technologies are integrated into wireless networks. Commenters should identify whether any of our existing rules unfairly advantage or disadvantage one RAN technology over another. For example, do our rules favor or disadvantage either a single vendor or multi-vendor approach? We ask commenters to identify these rules and suggest changes that would address these concerns. What changes are necessary to ensure our rules remain technologically neutral?

A Commission licensee is responsible for ensuring that its network complies with the Communications Act and Commission rules. Would a licensee that chooses to incorporate Open RAN technology, which is comprised of multiple components supplied by multiple vendors, into its network face different challenges than a licensee that has multiple vendors for non-RAN components or different RAN vendors today? We seek comment on ways to ensure that licensees maintain responsibility for each element of their network in accordance with the Communications Act and Commission rules. Does Open RAN present unique challenges in this regard? For example, does Open RAN present any unique challenges in identifying transmission sources (and their operators) compared to traditional RAN? If so, how should we account for those challenges in the service rules for each band?

We also seek comment on how testing of Open RAN equipment for compliance with the Commission's technical rules could be accomplished as part of the equipment certification process. Are the Commission's existing equipment authorization rules that require manufacturers to test whether their products contribute to harmful interference sufficient in the context of Open RAN systems comprised of components from multiple vendors? If not, how should testing responsibilities be allocated between manufacturers and operators to ensure that specific combinations of equipment do not cause harmful interference to other spectrum users? Should the Commission or other Federal agencies have a role in evaluating, auditing, or ensuring that vendors purporting to offer Open RAN systems do actually provide an open and interoperable solution? Commenters should identify other challenges that entities deploying Open RAN technologies may face in complying with existing operational and service rules.

Commission Outreach and Information Gathering. As discussed, the Commission has previously promoted industry and public involvement in Open RAN discussions. The Commission's Technological Advisory Committee provides technical advice to the Commission, and one of its four working groups recently studied virtualized radio access networks as well as 5G technology and the Internet of Things applications. We seek comment on the recommendations of this working group. We seek further comment on how best to harness the work of the TAC or other groups that the Commission could potentially establish, in order to engage government, industry, and academia stakeholders in developing and deploying Open RAN solutions.

As discussed above, CSRIC has previously examined security issues in 5G networks. To what extent should potential future iterations of CSRIC be used to promote Open RAN technology without endorsing a particular technology or company? What other roles might CSRIC serve to foster Open RAN development and security?

Relationship to Other Federal Agencies. The National Science Foundation has funded fundamental research on open architectures for many years. Its most recent program, Platforms for Advanced Wireless Research (PAWR), is a public-private partnership that seeks to develop experimental testbeds for innovative research into the next generation of wireless systems. One such testbed is the Platform for Open Wireless Data-driven Experimental Research (POWDER), a facility for Open RAN experimentation, by both academia and industry, in a city-scale ''living laboratory'' run by the University of Utah in partnership with Salt Lake City and the Utah Education and Telehealth Network. POWDER will deploy and test both off-the-shelf equipment and radio hardware and software being developed by RENEW (Reconfigurable Eco-system for Next Generation End-to-end Wireless), a partnership of Rice University, University of Michigan, and Texas Southern University focused on developing a fully programmable and observable wireless radio network. Likewise, the Cloud Enhanced Open Software-Defined Mobile Wireless Testbed in New York City provides city-scale wireless experimentation for ultra-high bandwidth and low latency technologies and applications.

The Defense Advanced Research Projects Agency (DARPA) recently started the Open, Programmable, Secure 5G (OPS–5G) program to address security challenges that will confront future wireless networks. OPS–5G aims to reduce reliance on potentially untrusted providers of technology by developing a secure-by-design stack for mobile, wireless networks using open-source software and interoperable, standard-compliant hardware and software components. NTIA recently announced a 5G Challenge Notice of Inquiry in collaboration with the Department of Defense (DoD) 5G initiative, seeking feedback on the creation of a 5G Challenge that will spur stakeholders into accelerating deployment of Open RAN architectures in the recently announced DoD 5G testbeds. The Notice of Inquiry is structured around three main categories of questions: (i) Challenge structure and goals, (ii) incentives and scope, and (iii) timeframe and infrastructure support.

The DoD has awarded $600M in the first phase of funding (called Tranche 1) to 15 prime contractors to evaluate 5G technologies in five military installations across the United States. Each will investigate a specific application such as AR/VR based training, ''smart warehousing'' capability, and spectrum sharing between radar and cellular services. In addition, seven sites have been chosen for Tranche 2. The solicitation period for white papers for four of the sites in Tranche 2 closed on December 15, 2020, and the process of evaluating these has begun. Request for Proposals for all seven sites in Tranche 2 are expected in early 2021.

Is there a role for the FCC in helping to advance the objectives of these various federal efforts to promote and streamline Open RAN development and deployment? How can the Commission ensure that it is not duplicating efforts of other federal agencies or contribute to these ongoing initiatives? Should the FCC help to facilitate industry engagement in these processes to ensure that the interests of non-federal operators and equipment manufacturers are adequately represented?

Role in International Open RAN Efforts. The Commission's regulatory counterparts around the world are exploring Open RAN within the context of their respective domestic regulatory policy. The United Kingdom, for example, is creating a SmartRAN Open Network Interoperability Centre as a part of its national 5G Diversification

Strategy. The center is a joint program between the UK regulator Ofcom and UK innovation agency Digital Catapult, and it will serve as a testbed for Open RAN solutions. Likewise, in Japan, the Ministry of Internal Affairs and Communications has outlined plans to pursue international collaboration in order to promote the implementation and standardization of open architecture and network virtualization. Germany has begun to consider providing funding for Open RAN research and development, as the United States has done.

International fora have also increasingly begun to engage in dialogue on Open RAN. For instance, in February 2021, the United States co-sponsored a workshop on open architectures and network virtualization within the Telecommunications & Information Working Group of the Asia-Pacific Economic Cooperation forum (APEC). The European Commission has also launched a study into the status of 5G supply markets and Open RAN and has held workshops with stakeholders to gather information.

These initiatives lead us to ask broadly whether the experiences of other telecommunications regulators provide any best practices or lessons learned that the Commission should consider, especially keeping in mind the international nature of current and planned Open RAN deployments. Are there lessons we should learn from our counterparts abroad about how an independent regulator can best support national research and development efforts? With which specific organizations or events should the Commission consider participating in order to have productive international discussions on Open RAN? As one of many U.S. agencies working alongside the Department of State to engage with organizations like APEC and the OECD, what specific role can the Commission play to ensure any OECD principles or best practices identified by those organizations serve the public interest? Is there information that we should be gathering from, or sharing with, international stakeholders on Open RAN, and, if so, what is the most appropriate avenue by which we should gather or share this information? Finally, are there any steps the Commission can or should take to support industry-led efforts internationally and help avoid fragmentation or duplication? How can the Commission encourage U.S. stakeholders to participate in these fora?

Role in Advancing Open-Architecture Network Solutions Generally. While this Notice of Inquiry primarily examines the potential of open and virtualized radio access networks in promoting U.S. network security and 5G leadership, we also seek comment on whether there is a similar need for or interest in advancing open-architecture network solutions generally (*e.g.,* open and disaggregated optical and packet transport and open cloud-native core). How do RAN and non-RAN elements of the network differ in terms of their need for or feasibility of disaggregated, interoperable solutions? Are the issues and/or market conditions that prompted development of Open RAN solutions similarly prevalent in the market for other, non-RAN elements of the system? What efforts, if any, have been made to develop and deploy open-architecture network solutions for other elements of the system? What are the costs, benefits, and challenges of open-architecture network solutions generally (*i.e.,* for non-RAN elements of the system). For example, open and disaggregated Transport requires more nodes for the orchestration layers to manage. Accordingly, we seek comment on challenges associated with open and disaggregated Transport specifically and other elements more generally. What, if any, actions can or should be taken by the Commission to advance open network solutions for non-RAN elements of the network?

Legal Issues. The Commission has broad authority under Title III of the Act to manage the use of radio spectrum, to prescribe the nature of wireless services to be rendered, and to modify existing licenses when doing so would promote the public interest. We seek comment on what additional legal obligations may incentivize and support the development and deployment of more secure Open RAN. For example, in adopting the Commission's prohibition on the use of USF funds to purchase, operate, or maintain covered communications equipment and services, the Commission found that the rule implicated section 105 of CALEA. Section 105 requires every telecommunications provider to ''ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer of employee of the carrier.'' The Commission found that, therefore, telecommunications carriers ''appear to have a duty'' to avoid the risk that an untrusted supplier could illegally intercept or provide remote unauthorized network access by the insertion of malicious hardware or software implants. We seek comment on the impact of virtualized and interoperable network components on a carrier's ability to comply with this statutory obligation. Would disaggregation of the RAN functionality and an enhanced ability to use network elements from different vendors help network operators ensure that carriers can prevent access to their networks by untrusted entities?

In addition to the statutory obligation, the Commission is authorized to ''prescribe such rules as are necessary to implement the requirements of'' CALEA and to require carriers to establish policies to prevent unauthorized surveillance. When adopting section 54.9, the Commission found that that rule directly implements section 105 of CALEA by reducing the likelihood that ETCs use USF support to facilitate unauthorized surveillance. Can the Commission rely upon CALEA obligations and its associated rulemaking authority to encourage deployment of secure equipment, including Open RAN? We also seek comment on whether CALEA provides authority to support the development and deployment of Open RAN. For example, section 106 directs manufacturers to make available to carriers, ''on a reasonable and timely basis and at a reasonable charge, . . . such features or modifications as are necessary to permit such carriers to comply with the capability requirements'' of section 103; those capability requirements include the ability to facilitate authorized surveillance ''in a manner that protects . . . the privacy and security of communications and call-identifying information not authorized to be intercepted'' and ''information regarding the government's interception of communications and access to call-identifying information.''

Congress has directed the Commission to ''encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment.'' What sources of authority could the Commission consider invoking to encourage or incentivize development and deployment of Open RAN and virtualized networks? In the *Supply Chain Second Report and Order,* the

Commission relied upon sections 201(b) and 254, among other sections, for authority to require USF recipients to remove and replace covered equipment. Do those sections provide the Commission with authority to encourage and incentivize development and deployment of Open RAN and virtualized networks? If so, should the Commission rely upon these sections to do so? Commenters should explain in detail why or why not they believe we have authority to act, if the Commission chooses to do so.

E. Costs and Benefits of Open RAN Deployment

We seek comment on the likely costs and benefits of Open RAN deployment for mobile network operators. The Office of Economics and Analytics plans to undertake an economic study that would evaluate the likely benefits and costs of Open RAN deployment. In particular, we ask that commenters provide information and data that quantify both the potential costs and benefits of Open RAN deployment, and we seek comment on the issues that should be studied and likely promising methodologies to carry out such studies. For example, to what extent will mobile network operators benefit from open interfaces and standards? How would the Commission's actions impact the development of Open RAN and related technologies in comparison to what industry participants currently expect? Specifically, are there any obstacles preventing the industry from optimally investing in the Open RAN technologies that could be eliminated by Commission actions? Are there any spillover social benefits arising from the Open RAN deployment not internalized by the wireless network industry in its investment decisions? For example, does one firm's investment in the Open RAN system result in any spillover benefits to other Open RAN component vendors network operators, consumers, or public safety without such benefiting entities paying for the cost of development either directly or indirectly? We ask commenters to quantify the potential spillover social benefits that may be lost if the Open RAN development and deployment decisions are made by the wireless network firms, without Commission action.

We seek comment on the relative and absolute costs of Open RAN deployment and interoperability. How do the costs of Open RAN equipment compare with the costs of equipment from proprietary equipment manufacturers? How do the operating expenses of an Open RAN network compare to those of a proprietary network? Are there any costs to using multiple equipment vendors in constructing networks, such as the costs of network design and integration? If so, we ask commenters to provide information on the magnitude of these costs, and the underlying methodology for quantifying these costs. We also seek information on how interoperability between the various equipment vendors can be ensured. In particular, does it require specific integration platforms or institutions to monitor and coordinate the development and maintenance of standards and integration of the Open RAN technologies? If such institutions exist, are there Commission rules that would affect their operations? If such institutions do not exist, what are the associated costs to set up and maintain such platforms and institutions? Further, we seek information on Open RAN performance compared to existing networks or potential alternative technologies, and how the cost of deployment and relative benefits of performance differ. Do such differences depend on market characteristics such as whether areas are sparsely or densely populated or whether expanding geographic coverage or expanding capacity in a fixed geography is the more important consideration? To the extent that performance differs, we ask commenters to quantify the effect of those performance differences on consumers.

In addition, we seek comment on the likely costs and benefits of Open RAN for the broader economy. Could adopting Open RAN reduce the probability of security breaches compared with existing and alternative technologies? What are the economic costs of these breaches, including costs associated with breach prevention, that may vary across Open RAN and other technologies? How much additional consumer value and utilization of services would there be once networks implement Open RAN? How much would consumers value reduction in security risk from Open RAN deployment? How much would consumers value improvement in speed, additional capacity, or improvements in use cases such as drone operation? We seek comment on the costs of addressing security concerns raised elsewhere in this document.

Federal Communications Commission.

Marlene Dortch,

Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

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AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid control number. Comments concerning the accuracy of the burden estimates and any suggestions for reducing the burden should be directed to the person listed below.

FOR FURTHER INFORMATION CONTACT: Kerry Murray, Satellite Division, International Bureau, at (202) 418–0734, or email: *Kerry.Murray@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1282.

OMB Approval Date: March 16, 2021.

Expiration Date: March 31, 2024.

Title: Telemetry, Tracking and Command Earth Station Operators.

Form No.: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents: 4 respondents; 4 responses.

Estimated Time per Response: 12 hours.

Frequency of Response: On occasion reporting requirement and Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory authority for the information collection requirements under 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), 309, and 316.

Total Annual Burden: 48 hours.

Total Annual Cost: $2,200.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality pertaining to the information collection requirements in this collection.

Needs and Uses: On March 3, 2020, the Commission released a Report and Order and Order of Proposed Modification titled, ''In the Matter of Expanding Flexible Use of the 3.7 to 4.2

GHz,'' GN Docket Number 18–122 (FCC 20–22). This rulemaking, which is under the purview of the Commission's Wireless Telecommunications Bureau, is hereinafter referred to as the 3.7 GHz Report and Order.

The Commission believes that C-band spectrum for terrestrial wireless uses will play a significant role in bringing next-generation services like 5G to the American public and assuring American leadership in the 5G ecosystem. The agency took action to make this valuable spectrum resource available for new terrestrial wireless uses as quickly as possible, while also preserving the continued operation of existing Fixed Satellite Services (FSS) available during and after the transition.

In the 3.7 GHz Report and Order, the Commission concluded that a public auction of the lower 280 megahertz of the C-band will best carry out our goals, and the agency will add a mobile allocation to the 3.7–4.0 GHz band so that next-generation services such as 5G can use the band. Relying on the Emerging Technologies framework, the Commission adopted a process to relocate FSS operations into the upper 200 megahertz of the band, while fully reimbursing existing operators for the costs of this relocation and offering accelerated relocation payments to encourage a speedy transition. The Commission also adopted service and technical rules for overlay licensees in the 280 megahertz of spectrum designated for transition to flexible use.

Among other information collection requirements in the 3.7 GHz Report and Order, the Commission has adopted several requirements, described in the text, related to the protection of TT&C earth stations and coordination with 3.7 GHz Service licensees. In a section of the 3.7 GHz Report and Order titled ''Adjacent Channel Protection Criteria'' the Commission sets out the following requirements:

Pursuant to paragraph 388 of the 3.7 GHz Report and Order, the Commission requires that the TT&C operators make available certain pertinent technical information about their systems upon request by licensees in the 3.7 GHz Service to ensure the protection of TT&C operations. In addition, paragraph 389 of the 3.7 GHz Report and Order includes the requirement that, in the event of a claim by a TT&C earth station operating in 4.0–4.2 GHz of harmful interference by a 3.7 GHZ operator, the earth station operator must demonstrate that that have installed a filter that complies with the mask requirement prescribed by the Commission. This requirement will facilitate an efficient and safe transition by requiring earth station operators to demonstrate their compliance with the mask requirements, thereby minimizing the risk of interference.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–06334 Filed 3–26–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FRS 17781]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 28, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Legacy High-Cost Support Recipient Initial Report of Current Service Offerings.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: Up to 110 respondents and 110 responses.

Estimated Time per Response: 16 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 1,760 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Most of the information collected under this collection will be made publicly available. However, in recognition of the fact that a carrier may consider the infrastructure information required to be submitted as part of its initial report to be sensitive, such infrastructure information will be treated as presumptively confidential by the Commission and the Universal Service Administrative Company (USAC) and withheld from public inspection, although USAC will provide these data to the Commission and the relevant state, territory, and Tribal governmental entities that have jurisdiction over a particular service area, as applicable. To the extent that a respondent seeks to have other information collected in response to this information collection withheld from public inspection, the respondent may request confidential treatment pursuant to 47 CFR 0.459 of the Commission's rules.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: A request for approval of this new information collection will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from OMB.

On November 18, 2011, the Commission released the *USF/ICC*

Transformation Order (FCC 11–161) in which it comprehensively reformed and modernized the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. In the *USF/ICC Transformation Order,* the Commission, among other things, adopted a requirement that all eligible telecommunications carriers (ETCs) offer broadband service in their supported area that meets certain basic performance requirements and report regularly on associated performance measures as a condition of receiving federal high-cost universal service support.

On October 27, 2020, the Commission adopted the *5G Fund Report and Order* (FCC 20–150) in which it, among other things, helped to complete the reform of the high-cost program begun in the *USF/ICC Transformation Order* by adopting additional public interest obligations and performance requirements for legacy high-cost support recipients, whose broadband-specific public interest obligations for mobile wireless services were not previously detailed. The public interest obligations adopted in the *5G Fund Report and Order* for each competitive ETC receiving legacy high-cost support for mobile wireless services require that such competitive ETC (1) use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G meeting the adopted performance requirements within its subsidized service area(s), and (2) meet specific 5G broadband service deployment coverage requirements and service deployment milestone deadlines that take into consideration the amount of legacy support the carrier receives.

In order to gain a complete understanding of the current service offerings of each competitive ETC receiving legacy high-cost support for mobile wireless services, the Commission adopted rules that require each such competitive ETC to file an initial report containing information and certifications about (1) its current mobile service offerings in each of its subsidized service areas and how it is using legacy support, (2) whether it is offering mobile services in its subsidized service areas at rates that are reasonably comparable to those charged in urban areas, and (3) whether it has availed itself of the geographic flexibility granted by the Commission concerning its use of support within any other designated service area(s) for which it or an affiliated competitive ETC receives legacy support. *See* 47 CFR 54.313(p), 54.322(g), (h). The information and certifications provided in these initial reports will be used by the Commission to ensure that competitive ETCs receiving legacy high-cost support for mobile wireless services deploy 5G service by in their subsidized service areas consistent with the rules adopted by the Commission in the *5G Fund Report and Order.*

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–06335 Filed 3–26–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and the Quarterly Report of Credit Card Plans (FR 2835; FR 2835a; OMB No. 7100–0085).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and Quarterly Report of Credit Card Plans.

Agency form number: FR 2835; FR 2835a.

OMB control number: 7100–0085.

Frequency: Quarterly.

Respondents: Commercial banks.

Estimated number of respondents: FR 2835: 150; FR 2835a: 50.

Estimated average hours per response: FR 2835: .29; FR 2835a: .50.

Estimated annual burden hours: FR 2835: 176; FR 2835a: 100.

General description of report: The FR 2835 collects information from a sample of commercial banks on interest rates charged on loans for new vehicles and loans for other consumer goods and personal expenses. The FR 2835a collects information on two measures of credit card interest rates from a sample of commercial banks with $1 billion or more in credit card receivables and a representative group of smaller issuers. The data from these reports help the Board analyze current household financial conditions and the implications of these conditions for household spending and, as such, these data provide valuable input to the monetary policymaking process.

Legal authorization and confidentiality: The FR 2835 and the FR 2835a are authorized by sections 2A and 11 of the Federal Reserve Act (''FRA''). Section 2A of the FRA requires that the Board and the Federal Open Market Committee maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.[1] Section 11 of the FRA authorizes the Board to require reports from each member bank as it may deem necessary and authorizes the Board to prescribe reports of liabilities and assets from insured depository institutions to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates.[2] The obligation to

[1] 12 U.S.C. 225a.

[2] 12 U.S.C. 248(a).

respond to both the FR 2835 and FR 2835a is voluntary.

Most of the information collected through the FR 2835 is not considered confidential; however, to the extent narrative information submitted to explain large fluctuations in reported data contains nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, such information may be kept confidential pursuant to exemption 4 of the Freedom of Information Act (FOIA).[3] Individual respondent data collected through the FR 2835a may be considered confidential pursuant to FOIA exemption 4 to the extent the response contains nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent.[4]

Current actions: On January 19, 2020, the Board published a notice in the **Federal Register** (85 FR 73707) requesting public comment for 60 days on the extension, without revision, of the FR 2835 and FR 2835a. The comment period for this notice expired on January 19, 2021. The Board received one comment on the proposal from the Bureau of Economic Affairs (BEA). BEA strongly supports the continued collection of the information in the FR 2835 and FR 2835a.

Board of Governors of the Federal Reserve System, March 23, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–06377 Filed 3–26–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Board Public website Usability Surveys (FR 3076; OMB No. 7100–0366).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Board Public website Usability Surveys.

Agency form number: FR 3076.

OMB control number: 7100–0366.

Frequency: As needed.

Respondents: Individual users and potential users of the Board's public website.

Estimated number of respondents: Surveys: 100; focus groups: 20.

Estimated average hours per response: Surveys: 0.25; focus groups: 1.5.

Estimated annual burden hours: Surveys: 300; focus groups: 120.

General description of report: The FR 3076 is used to gather qualitative and quantitative information directly from users or potential users of the Board's website such as the Congress, other government agencies, the public, economic educators, economists, financial institutions, financial literacy groups, and community development groups and more. Participation is voluntary.

The FR 3076 may seek information from users or potential users of various Board web pages, including press releases, data releases and downloads, reports, supervision manuals, brochures, new web pages, audio, video, and use of social media. Information gathered may also include general input on users' interests and needs, feedback on website navigation and layout, distribution channels, or other factors which may affect the ability of users to locate and access content online.

Qualitative collections conducted using the FR 3076 include data gathering methods such as focus groups and individual interviews. Quantitative surveys conducted using the FR 3076 include surveys conducted online or via mobile device, telephone, mail, emails, or a combination of these methods. The Board may contract with an outside vendor to conduct focus groups, interviews, or surveys, or the Board may collect the data directly.

Legal authorization and confidentiality: The Board uses its website and social media to communicate important information to the public about a variety of different issues. The Board is required to provide certain information on its website. For example, under section 2B of the Federal Reserve Act the Board is required to provide certain reports, audits, and other information that ''the Board reasonably believes is necessary or helpful to the public in understanding the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks'' (12 U.S.C. 225b(c)). In addition, the Board uses its website to provide the public with information about a variety of other matters, including information about the Board, its actions, and the economy. The responses to the FR 3076 help the Board determine how to most effectively communicate this information to the public in order to fulfill its statutory responsibilities.

The FR 3076 is voluntary and the information collected by the FR 3076 is not considered to be confidential.

Current actions: On September 17, 2020, the Board published an initial notice in the **Federal Register** (85 FR 58053) requesting public comment for 60 days on the extension, without revision, of the FR 3076. The comment period for this notice expired on November 16, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, March 23, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–06378 Filed 3–26–21; 8:45 am]

BILLING CODE 6210–01–P

[3] 5 U.S.C. 552(b)(4).

[4] 5 U.S.C. 552(b)(4).

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Rules Regarding Availability of Information (FR 4035; OMB No. 7100–0381).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collections

Collection title: Reporting, Recordkeeping, and Disclosure Requirements Associated with Rules Regarding Availability of Information.

Agency form number: FR 4035.

OMB control number: 7100–0381.

Frequency: As needed.

Respondents: The FR 4035 respondent panel comprises supervised financial institutions (12 CFR 261.21(b)(4)), state, local, and foreign agencies and entities exercising governmental authority (12 CFR 261.22(c)), and any person, entity, agency or authority (12 CFR 261.23(b), 261.23(c), 261.24(a)).

Estimated number of respondents:

Reporting
Section 261.22(c)—20.
Section 261.23(b)—15.
Section 261.23(c)—30.
Section 261.24(a)(1)—3.
Recordkeeping
Section 262.21(b)(4)—60.
Disclosure
Section 261.24(a)(2)—3.
Section 261.24(a)(3)—3.

Estimated average hours per response:

Reporting
Section 261.22(c)—0.5.
Section 261.23(b)—1.
Section 261.23(c)—1.
Section 261.24(a)(1)—1.
Recordkeeping
Section 262.21(b)(4)—0.25.
Disclosure
Section 261.24(a)(2)—1.
Section 261.24(a)(3)—1.

Estimated annual burden hours:

Reporting
Section 261.22(c)—20.
Section 261.23(b)—15.
Section 261.23(c)—30.
Section 261.24(a)(1)—3.
Recordkeeping
Section 262.21(b)(4)—60.
Disclosure
Section 261.24(a)(2)—3.
Section 261.24(a)(3)—3.

General description of collection: The information collection consists of reporting, recordkeeping, and disclosure requirements under subpart C (Nonpublic Information Made Available to Supervised Financial Institutions, Governmental Agencies, and Others in Certain Circumstances) of the Rules Regarding Availability of Information (12 CFR part 261). Subpart C contains reporting requirements that enable third parties to request the Board's authorization to access, use, or further disclose confidential supervisory information or other nonpublic information of the Board, and that ensure that the Board is notified when any subpoena or other legally enforceable demand requires production of confidential supervisory information or other nonpublic information of the Board in the form of documents or testimony. Subpart C also contains one recordkeeping requirement related to a provision that allows supervised financial institutions to disclose confidential supervisory information to service providers if the disclosure is deemed necessary to the service provider's provision of services, and two disclosure requirements that apply when individuals are served with a subpoena, order, or other judicial or administrative process requiring the production of confidential supervisory information or other nonpublic information of the Board in the form of documents or testimony.

Legal authorization and confidentiality: The FR 4035 is authorized pursuant to section 9 of the Federal Reserve Act (12 U.S.C. 326), which provides that the Board ''may furnish . . . confidential supervisory information . . . to any other person that the Board determines to be proper.'' Persons seeking to obtain, use, or disclose confidential supervisory information or other nonpublic information of the Board must comply with the reporting and recordkeeping requirements of the Rules Regarding Availability of Information. Additionally, persons served with a subpoena, order, or other judicial or administrative process requiring the production of confidential supervisory information or other nonpublic information of the Board or requiring the person's testimony regarding such information in any proceeding must comply with the disclosure requirements of FR 4035. Thus, the FR 4035 is required to obtain a benefit, in part, and mandatory, in part.

Any confidential supervisory information that is submitted in connection with the FR 4035 would be considered confidential pursuant to exemption 8 of the Freedom of Information Act (FOIA), which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). Individual respondents may request that other information submitted to the Board through the FR 4035 be kept confidential. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on a case-by-case basis. To the extent a respondent submits privileged or confidential commercial or financial information in connection with the FR 4035, the respondent may request confidential treatment pursuant to exemption 4 of the FOIA (5 U.S.C. 552(b)(4)).

Current actions: On September 15, 2020, the Board published a notice in the **Federal Register** (85 FR 57616) requesting public comment for 60 days on the extension for three years, without revision, of the Reporting,

Recordkeeping, and Disclosure Requirements Associated with Rules Regarding Availability of Information. The comment period for this notice expired on November 16, 2020. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, March 23, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–06380 Filed 3–26–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[FR 2052a; OMB No. 7100–0361]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Complex Institution Liquidity Monitoring Report.

DATES: Comments must be submitted on or before May 28, 2021.

ADDRESSES: You may submit comments, identified by FR 2052a, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be available at *https://www.reginfo.gov/public/do/PRAMain,* if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Report title: Complex Institution Liquidity Monitoring Report.

Agency form number: *FR 2052a.*

OMB control number: 7100–0361.

Frequency: Monthly, daily.

Respondents: Certain U.S. bank holding companies (BHCs), top-tier savings and loan holding companies (SLHCs), U.S. global systemically important BHCs, and foreign banking organizations (FBOs).

Estimated number of respondents: Monthly (ongoing): 26, monthly (one-time): 26; daily (ongoing): 15, daily (one-time): 15.

Estimated average hours per response: Monthly (ongoing): 121, monthly (one-time): 140; daily (ongoing): 221, daily (one-time): 238.

Estimated annual burden hours: Monthly (ongoing): 37,752; monthly (one-time): 3,640; daily (ongoing): 828,750; daily (one-time): 3,570.

General description of report: The FR 2052a collects quantitative information on select assets, liabilities, funding activities, and contingent liabilities of certain large banking organizations with $100 billion or more in total consolidated assets supervised by the Board on a consolidated basis. The Board uses this information to monitor the liquidity profile of these banking organizations.

Proposed revisions: In April 2020, the Board issued an interim final rule that amended the Board's Regulation D (12 CFR part 204—Reserve Requirements of Depository Institutions). The Regulation D amendment resulted in an expansion of Regulation D's definition of transaction accounts to permit the inclusion of accounts that were formerly subject to transfer limit requirements. For purposes of the FR 2052a, the Board proposes to expand the term ''Transactional Accounts'' to include the

subset of transaction accounts as defined under Regulation D, where the depositor is not required by the deposit contract to give written notice of an intended withdrawal. Specifically, the Board proposes to update the definition for the product ''O.D.1: Transactional Accounts,'' consistent with the updated Regulation D.

In June 2016, the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) proposed the net stable funding ratio (NSFR) rule to implement a stable funding requirement for certain large banking organizations that were subject to the liquidity coverage ratio (LCR) rule at that time. The proposed NSFR rule would have introduced a quantitative metric to measure a banking organization's funding stability over a one-year time horizon. The agencies issued two proposals subsequent to issuance of the proposed NSFR rule to revise the criteria for determining the scope of application of the NSFR requirement (tailoring proposals). The agencies issued an NSFR final rule on October 20, 2020, that is generally similar to the proposed NSFR rule, with certain adjustments. The proposed FR 2052a revisions, discussed in detail below, are consistent with the requirements of the NSFR final rule.

The Board proposes the following revisions to the reporting form and instructions of the FR 2052a to accurately reflect the NSFR final rule and to capture other data elements necessary to monitor banking organizations' liquidity positions and compliance with Liquidity Risk Measurement (LRM) Standards. Specifically, the Board proposes to add:

1. The definition of Liquidity Risk Measurement Standards and other clarifications under ''General Instructions.''

2. Clarifications and regulation references under ''Field Definitions.''

3. The following Counterparty types under ''Field Definitions'': Pension Fund; Broker-Dealer; Investment Company or Advisor; Financial Market Utility; Other Supervised Non-Bank Financial Entity; and Non-Regulated Fund; and to remove Supervised Non-Bank Financial Entity and Other Financial Entity.

4. The following fields under ''Field Definitions'': Business Line; Risk Weight; Collection Reference; Product Reference; Sub-product Reference; Netting Eligible; Encumbrance Type; Collateral Level; Accounting Designation; Loss Absorbency; G–SIB; and Maturity Optionality.

5. A sentence to the description of ''flags'' under the field ''Settlement'': ''FICC: secured financing transactions that are cleared and novated to the Fixed Income Clearing Corporation (FICC).''

6. The following language to the ''Triparty'' flag under the field ''Settlement'': ''excluding transactions that originate on the tri-party platform, but are novated to FICC (*e.g.,* the General Collateral Finance repo service).''

7. The following language to the ''Bilateral'' flag under the field ''Settlement'': ''(excludes transactions that are initiated bilaterally, but subsequently cleared (*e.g.,* FICC delivery-vs-payment transactions).''

8. Clarifications to the general guidance, names, and definitions of products under ''I.A: Inflows-Assets''; ''I.U: Inflows-Unsecured''; ''I.S: Inflows-Secured''; ''I.O: Inflows-Other''; ''O.W: Outflows-Wholesale''; ''O.S: Outflows-Secured''; ''O.D: Outflows-Deposits''; ''O.O: Outflows-Other''; and ''S.FX: Supplemental-Foreign Exchange''.

9. The product I.A.7: Encumbered Assets, which refers to encumbered assets of which the reporting entity is the beneficial owner (*i.e.,* the assets are represented on the accounting balance sheet), that are not otherwise captured under other FR 2052a balance sheet products in the I.A, I.U, or I.S tables.

10. I.U.7: Cash Items in the Process of Collection, which refers to certain items that are customarily cleared or collected as cash items by depository institutions in the country where the covered company's office that is clearing or collecting the item is located.

11. I.U.8: Unposted Debits, which refers to cash items in a subsidiary depository institution's possession, drawn on itself, that are immediately chargeable, but that have not been charged to the general ledger deposit control account at the close of business on the report date.

12. I.U.9: Short-Term Investments, which refers to balances, including, but not limited to time deposits, that are held as short-term investments (*e.g.,* reported in schedule HC–B on the FR Y–9C) at external financial counterparties.

13. I.S.7: Outstanding Draws on Secured Revolving Facilities, which refers to the existing loan arising from the drawn portion of a revolving facility (*e.g.,* a general working capital facility) extended by the reporting entity, where the facility is secured by a lien on an asset or pool of assets.

14. I.S.8: Other Secured Loans (Non-Rehypothecatable), which refers to all other secured lending that does not otherwise meet the definitions of the other Inflows-Secured products, for which the collateral received is not contractually rehypothecable.

15. I.S.9: Synthetic Customer Longs, which refers to total return swaps booked in client accounts, where the reporting entity is economically short the underlying reference asset and the client is economically long.

16. I.S.10: Synthetic Firm Sourcing, which refers to total return swaps that are not booked in client accounts, where the reporting entity is economically short the underlying reference asset and the counterparty is economically long.

17. O.S.9: Synthetic Customer Shorts, which refers to total return swaps booked in client accounts, where the reporting entity is economically long the underlying reference asset and the client is economically short.

18. O.S.10: Synthetic Firm Financing, which refers to total return swaps that are not booked in client accounts, where the reporting entity is economically long the underlying reference asset and the counterparty is economically short.

19. O.S.11: Other Secured Financing Transactions, this data field previously was O.S.9, it has been renumbered to be O.S.11. No other aspects of the data field has changed.

20. O.D.5: Excess Balances in Operational Accounts, which refers to deposits from counterparties that are not Retail or Small Business customers that are excluded from the reporting entity's operational deposit amount based on the reporting entity's methodology for identifying excess balances pursuant to 12 CFR 249.4(b)(5).

21. O.D.9: Stable Affiliated Sweep Account Balances, which refers to stable deposit balances held at the reporting entity by a customer or counterparty through a contractual feature that automatically transfers to the reporting entity from an affiliated financial company at the close of each business day the amounts identified under the agreement governing the account from which the amount is being transferred.

22. O.D.10: Less Stable Affiliated Sweep Account Balances, which refers to all other deposit balances, excluding those reported under O.D.9: Stable Affiliated Sweep Account Balances, that are held at the reporting entity by a customer or counterparty as a result of a contractual feature that automatically transfers to the reporting entity from an affiliated financial company at the close of each business day the amounts identified under the agreement governing the account from which the amount is being transferred.

23. S.DC: Supplemental-Derivatives and Collateral table and the associated elements below.

24. S.DC General Guidance, which defines the scope of products to be reported in the Supplemental-Derivatives and Collateral table.

25. S.DC.1: Gross Derivative Asset Values, which refers to the aggregate value of derivative transactions not subject to qualifying master netting agreements that are assets and the net value of derivative transactions within qualifying master netting agreements where the netting sets are assets.

26. S.DC.2: Gross Derivative Liability Values, which refers to the aggregate value of derivative transactions not subject to qualifying master netting agreements that are liabilities and the net value of derivative transactions within qualifying master netting agreements where the netting sets are liabilities.

27. S.DC.3: Derivative Settlement Payments Delivered, which refers to the cumulative value of payments delivered as variation margin on outstanding derivative contracts for the purpose of settling a change in the market value of the contract (*e.g.,* ''settled-to-market'' derivatives).

28. S.DC.4: Derivative Settlement Payments Received, which refers to the cumulative value of payments received as variation margin on outstanding derivative contracts for the purpose of settling a change in the market value of the contract (*e.g.,* ''settled-to-market'' derivatives).

29. S.DC.11: Derivative CCP Default Fund Contribution, which refers to the reporting entity's contributions to a central counterparty's mutualized loss-sharing arrangement, where the reporting entity's clearing activity with the central counterparty includes derivative transactions.

30. S.DC.12: Other CCP Pledges and Contributions, which refers to the reporting entity's asset pledges (*e.g.,* in the form of initial margin) and contributions to a central counterparty's mutualized loss sharing arrangement, where the reporting entity's clearing and/or settlement activity with the central counterparty does not include derivative transactions.

31. S.L: Supplemental LRM table and the associated elements below.

32. S.L.2: Subsidiary Liquidity Available for Transfer, which refers to the amount of excess eligible high-quality liquid assets (HQLA) that is held at a subsidiary of the consolidated reporting entity that is determined as transferrable as per sections 22(b)(3)(i)(B), 22(b)(3)(ii)(B) or 22(b)(4)(ii) of the LRM Standards.

33. S.L.6: Liquidity Coverage Ratio, which refers to the reporting entity's LCR calculation, as specified in section 10(c) of the LRM Standards. Only reporting entities that are subject to the LCR on a standalone basis per section 1 of the LRM Standards are required to report this product.

34. S.L.7: Subsidiary Funding That Cannot be Transferred, which refers to the amount of stable funding at a reporting entity's subsidiary that is in excess of the required stable funding amount of that subsidiary, pursuant to the LRM Standards, but cannot be transferred to the reporting entity due to statutory, regulatory, contractual or supervisory restrictions.

35. S.L.8: Subsidiary Funding Available for Transfer, which refers to the amount of stable funding at a reporting entity's subsidiary that is in excess of the required stable funding amount of that subsidiary, pursuant to the LRM Standards, that is determined as transferrable as per section 108(a)(2) of the LRM Standards.

36. S.L.9: Additional Funding Requirement for Off-Balance Sheet Rehypothecated Assets, which refers to a reporting entity's required stable funding amount under section 106(d)(3) of the LRM Standards.

37. S.L.10: Net Stable Funding Ratio, which refers to the reporting entity's NSFR calculation, as specified in section 100(b) of the LRM Standards. Only reporting entities that are subject to the NSFR on a standalone basis per section 1 of the LRM Standards are required to report this product.

38. S.B: Supplemental-Balance Sheet table and the associated elements below.

39. S.B: General Guidance, which explains that the products S.B.1 through S.B.6 represent data elements that are necessary, in tandem with other FR 2052a balance sheet products, to construct an accounting balance sheet.

40. S.B.1: Regulatory Capital Element, which refers to the carrying value of regulatory capital, as defined in section 3 of the LRM Standards, excluding capital instruments already reported in the O.W. table.

41. S.B.2: Other Liabilities, which refers to all other liabilities not otherwise captured under other FR 2052a balance sheet products, including intangible liabilities.

42. S.B.3: Non-Performing Assets, which refers to assets that are past due by more than 90 days or non-accrual.

43. S.B.4: Other Assets, which refers to all other assets not otherwise captured under other FR 2052a balance sheet products, including intangible, life insurance and deferred tax assets.

44. S.B.5: Counterparty Netting, which refers to the value of offsetting of payables and receivables with a single counterparty permissible under section 102 of the LRM Standards that are otherwise reported on a gross basis for the purpose of the FR 2052a.

45. S.B.6: Carrying Value Adjustment, which refers to all other adjustments to the value of FR 2052a balance sheet products necessary to arrive at the carrying value consistent with section 102 of the LRM Standards.

46. The following language to the description of ''S.I.3: Gross Client Wires Received,'': ''Include transfers of both cash and securities. Use the [Collateral Class] field to differentiate between asset categories.''

47. The following language to the description of ''S.I.4: Gross Client Wires Paid,'': ''Include transfers of both cash and securities. Use the [Collateral Class] field to differentiate between asset categories.''

48. S.I.6: Subsidiary Liquidity Not Transferrable, which refers to, for U.S. firms that are identified as Category IV banking organizations and foreign banking organizations that are identified as Category IV foreign banking organizations, a report of the amount of highly liquid assets of each reporting entity's consolidated subsidiaries that are in excess of the subsidiary's modeled net outflows over a 30-day planning horizon and would not be freely transferrable to the parent company due to statutory, regulatory, contractual, or supervisory restrictions (including sections 23A and 23B of the Federal Reserve Act and Regulation W).

Additionally, the Board proposes to reclassify the following items from the Supplemental Information table to the new Supplemental-Derivatives and Collateral and Liquidity Risk Measurement (LRM) tables and include clarifications:

1. S.DC.5: Initial Margin Posted—House, which refers to the fair value of collateral that the reporting entity has posted (total stock by applicable [Collateral Class]) to its counterparties as initial margin on its own proprietary derivatives positions.

2. S.DC.6: Initial Margin Posted—Customer, which refers to the fair value of collateral that the reporting entity has posted (total stock by applicable [Collateral Class]) to its counterparties as initial margin on behalf of customers.

3. S.DC.7: Initial Margin Received, which refers to the fair value of collateral that the reporting entity has received (total stock by applicable [Collateral Class]) from its counterparties as initial margin against both house and customer positions.

4. S.DC.8: Variation Margin Posted—House, which refers to the fair value of collateral that the reporting entity has posted (total stock by applicable [Collateral Class]) to its counterparties as variation margin on its own proprietary derivatives positions.

5. S.DC.9: Variation Margin Posted—Customer, which refers to the fair value of collateral that the reporting entity has posted (total stock by applicable [Collateral Class]) to its counterparties as variation margin on behalf of customers.

6. S.DC.10: Variation Margin Received, which refers to the fair value of collateral that the reporting entity has received (total stock by applicable [Collateral Class]) from its counterparties as variation margin against both house and customer positions.

7. S.DC.13: Collateral Disputes Deliverables, which refers to the fair value of collateral called by the reporting entity's counterparties that the reporting entity has yet to deliver due to a dispute. Disputes include, but are not limited to, valuation of derivative contracts.

8. S.DC.14: Collateral Disputes Receivables, which refers to the fair value of collateral that the reporting entity has called from its counterparties, but has not yet received due to a dispute. Disputes include, but are not limited to, valuation of derivative contracts.

9. S.DC.15: Sleeper Collateral Deliverables, which refers to the fair value of unsegregated collateral that the reporting entity may be required by contract to return to a counterparty because the collateral currently held by the reporting entity exceeds the counterparty's current collateral requirements under the governing contract.

10. S.DC.16: Required Collateral Deliverables, which refers to the fair value of collateral that the reporting entity is contractually obligated to post to a counterparty, but has not yet posted as it has not yet been called by the reporting entity's counterparty.

11. S.DC.17: Sleeper Collateral Receivables, which refers to the fair value of collateral that the reporting entity could call for or otherwise reclaim under legal documentation, but has not yet been called.

12. S.DC.18: Derivative Collateral Substitution Risk, which refers to the potential funding risk arising from the reporting entity's derivative counterparties having the contractual ability to substitute collateral with higher liquidity value currently held by the reporting entity with collateral of lower liquidity value or collateral that the reporting entity cannot monetize either due to liquidity or operational constraints.

13. S.DC.19: Derivative Collateral Substitution Capacity, which refers to the potential funding capacity arising from the reporting entity's contractual ability to substitute collateral with higher liquidity value currently posted to a derivatives counterparty with collateral of lower liquidity value.

14. S.DC.20: Other Collateral Substitution Risk, which refers to the potential funding risk arising from the reporting entity's counterparties of non-derivative transactions having the contractual ability to substitute collateral with higher liquidity value currently held by the reporting entity with collateral of lower liquidity value or collateral that the reporting entity cannot monetize either due to liquidity or operational constraints.

15. S.DC.21: Other Collateral Substitution Capacity, which refers to the potential funding capacity arising from the reporting entity's contractual ability to substitute collateral with higher liquidity value currently posted to a counterparty of a non-derivative transaction with collateral of lower liquidity value.

16. S.L.1: Subsidiary Liquidity That Cannot be Transferred, which refers to the amount of assets of each reporting entity's consolidated subsidiaries that is in excess of the net outflows, calculated pursuant to the LRM Standards, of that consolidated subsidiary that is not freely transferrable to affiliates due to statutory, regulatory, contractual, or supervisory restrictions (including sections 23A and 23B of the Federal Reserve Act and Regulation W).

17. S.L.3: Unencumbered Asset Hedges—Early Termination Outflows, which refers to all cash outflows that would arise from the early termination of a hedge associated with eligible HQLA, as defined in the LRM Standards, reported in the Inflows-Assets table.

18. S.L.4: Non-Structured Debt Maturing in Greater than 30-days—Primary Market Maker, which refers to the debt security buyback outflow amount set forth in the LRM Standards for the reporting entity's non-structured debt issuances.

19. S.L.5: Structured Debt Maturing in Greater than 30-days—Primary Market Maker, which refers to the debt security buyback outflow amount set forth in the LRM Standards for the reporting entity's structured debt issuances.

Lastly, the Board proposes to remove the following sentence from the instructions due to the addition of a data element for the NSFR final rule:

1. In the ''General Guidance'' paragraphs under the I.U: Inflows-Unsecured and I.S: Inflows-Secured headings: ''Exclude assets that secure Covered Federal Reserve Facility Funding.''

Legal authorization and confidentiality: The information collection under the FR 2052a is authorized by section 5 of the Bank Holding Company Act,[1] section 8 of the International Banking Act,[2] section 10 of the Home Owners' Loan Act,[3] and section 165 of the Dodd Frank Act.[4] Section 5(c) of the Bank Holding Company Act authorizes the Board to require bank holding companies to submit reports to the Board regarding their financial condition. Section 8(a) of the International Banking Act subjects foreign banking organizations to the provisions of the Bank Holding Company Act. Section 10 of the Home Owners' Loan Act authorizes the Board to require reports and examine savings and loan holding companies. Section 165 of the Dodd Frank Act requires the Board to establish prudential standards for certain bank holding companies and foreign banking organizations; these standards include liquidity requirements.

The FR 2052a is mandatory. The information collected on the FR 2052a is collected as part of the Board's supervisory process. Therefore, such information is entitled to confidential treatment under exemption 8 of the Freedom of Information Act (FOIA).[5] Additionally, to the extent a respondent submits nonpublic commercial or financial information, which is both customarily and actually treated as private by the respondent, in connection with the 2052a, the respondent may request confidential treatment pursuant to exemption 4 of the FOIA.[6]

Consultation outside the agency: The Board consulted with the OCC and FDIC in development of the NSFR final rule, which included corresponding revisions to the FR 2052a.

Board of Governors of the Federal Reserve System, March 23, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–06379 Filed 3–26–21; 8:45 am]

BILLING CODE 6210–01–P

[1] 12 U.S.C. 1844.

[2] 12 U.S.C. 3106.

[3] 12 U.S.C. 1467a.

[4] 12 U.S.C. 5365.

[5] 5 U.S.C. 552(b)(8).

[6] 5 U.S.C. 552(b)(4).

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0262; Docket No. 2021–0001; Sequence No. 4]

Information Collection; General Services Administration Acquisition Regulation; Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension of an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of an information collection requirement regarding identification of products with environmental attributes.

DATES: *Submit comments on or before:* May 28, 2021.

ADDRESSES: Submit comments identified by Information Collection 3090–0262; Identification of Products with Environmental Attributes to: *http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for ''Information Collection 3090–0262, Identification of Products with Environmental Attributes''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0262, Identification of Products with Environmental Attributes''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0262, Identification of Products with Environmental Attributes'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite Information Collection 3090–0262, Identification of Products with Environmental Attributes, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Torberntsson, Program Analyst, General Services Acquisition Policy Division, GSA, via email to *adina.torberntsson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA requires contractors holding Multiple Award Schedule Contracts to identify in their GSA price lists those products that they market commercially that have environmental attributes in accordance with GSAR clause 552.238–78. The identification of these products will enable Federal agencies to maximize the use of these products and meet the responsibilities expressed in statutes and executive order.

B. Annual Reporting Burden

Respondents: 744.

Responses per Respondent: 1.

Annual Responses: 744.

Hours per Response: 1.

Total Burden Hours: 744.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0262, Identification of Products with Environmental Attributes, in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2021–06415 Filed 3–26–21; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—CE21–006: Rigorously Evaluating Programs and Policies to Prevent Child Sexual Abuse (CSA).

Date: July 13–14, 2021.

Time: 8:30 a.m.–5 p.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341, Telephone (404) 639–0913, *MWalters@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. 2021–06372 Filed 3–26–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463.

Name of Committee: Safety and Occupational Health Study Section (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Date: June 15–16, 2021.

Time: 11:00 a.m.–5:00 p.m., EDT.

Place: Teleconference.

Agenda: The meeting will convene to address matters related to the conduct of Study Section business and for the study section to consider safety and occupational health-related grant applications.

For Further Information Contact: Michael Goldcamp, Ph.D., Scientific Review Officer, NIOSH, CDC, 1095 Willowdale Road, Morgantown, WV 26506, Telephone (304) 285–5951; *MGoldcamp@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. 2021–06369 Filed 3–26–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)-RFA–OH–20–002, Commercial Fishing Occupational Safety Research Cooperative Agreement; and RFA–OH–20–003, Commercial Fishing Occupational Safety Training Project Grants.

Date: May 26, 2021.

Time: 1:00 p.m.–4:00 p.m., EDT.

Place: Video-Assisted Meeting.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Marilyn Ridenour B.S.N., M.B.A., M.P.H., C.P.H., C.I.C., CAPT, USPHS, Scientific Review Official, Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26505, Telephone (304) 285–5879; *MRidenour@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. 2021–06371 Filed 3–26–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2021–0025]

Advisory Committee on Immunization Practices (ACIP); Correction

Notice is hereby given of a change in the meeting of the Advisory Committee on Immunization Practices (ACIP); May 5, 2021, from 11 a.m. to 5 p.m., EDT (times subject to change) in the original FRN.

The virtual meeting was published in the **Federal Register** on March 15, 2021, Volume 86, Number 48, pages 14328–14329.

The virtual meeting is being corrected to update the CDC docket number in the **ADDRESSES** section of the notice and should read as follows:

This meeting is open to the public.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0025 by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H24–8, Atlanta, GA 30329–4027, Attn: May ACIP Meeting.

Instructions: All submissions received must include the Agency name and Docket Number. All relevant comments received in conformance with the *https://www.regulations.gov* suitability policy will be posted without change to *https://www.regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.*

Written public comments submitted 72 hours prior to the ACIP meeting will be provided to ACIP members before the meeting.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, Centers for Disease Control and Prevention, National Center for Immunization and Respiratory Diseases, 1600 Clifton Road NE, MS–H24–8, Atlanta, GA 30329–4027, Telephone: (404) 639–8367; Email: *ACIP@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. 2021–06368 Filed 3–26–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA OH–21–007, Continuation and Expansion of the National Mesothelioma Virtual Bank for Translational Research.

Date: May 11, 2021.

Time: 1:00 p.m.–3:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Laurel Garrison, M.P.H., Scientific Review Official, National Institute for Occupational Safety and Health, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213, Telephone (513) 533–8324; *LGarrison@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. 2021–06370 Filed 3–26–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3408–N]

CLIA Program; Announcement of the Re-Approval of the College of American Pathologists (CAP) as an Accreditation Organization Under the Clinical Laboratory Improvement Amendments of 1988

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the application of the College of American Pathologists (CAP) for approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that the CAP meets or exceeds the applicable CLIA requirements. In this notice, we announce the approval and grant CAP deeming authority for a period of 6 years.

DATES: This notice is effective from March 27, 2021 until March 26, 2027.

FOR FURTHER INFORMATION CONTACT: Cindy Flacks, 410–786–6520.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (Pub. L. 100–578). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under those provisions, we may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in 42 CFR part 493 (Laboratory Requirements). Subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specifies the requirements an accreditation organization must meet to be approved by CMS as an accreditation organization under CLIA.

II. Notice of Approval of CAP as an Accreditation Organization

In this notice, we approve the College of American Pathologists (CAP) as an organization that may accredit laboratories for purposes of establishing their compliance with CLIA requirements in all specialties and subspecialties. We have examined the initial CAP application and all subsequent submissions to determine its accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that the CAP meets or exceeds the applicable CLIA requirements. We have also determined that the CAP will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R. Therefore, we grant the CAP approval as an accreditation organization under subpart E of part 493, for the period stated in the **DATES** section of this notice for all specialties and subspecialties under CLIA. As a result of this determination, any laboratory that is accredited by the CAP during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements for the listed specialties and subspecialties, and therefore, will generally not be subject to routine inspections by a state survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by CMS, or its agent(s).

III. Evaluation of the CAP Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the CAP accreditation program meets the necessary requirements to be approved by CMS and that, as such, we may approve the CAP as an accreditation program with deeming authority under the CLIA program. The CAP formally

applied to CMS for approval as an accreditation organization under CLIA for all specialties and subspecialties.

In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

The CAP submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. We have determined that the CAP policies and procedures for oversight of laboratories performing all laboratory testing covered by CLIA are equivalent to those required by our CLIA regulations in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. The CAP submitted documentation regarding its requirements for monitoring and inspecting laboratories and describing its own standards regarding accreditation organization data management, inspection processes, procedures for removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. We have determined that the requirements of the accreditation program submitted for approval are equal to or more stringent than the requirements of the CLIA regulations.

B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

We have determined that the CAP's requirements are equal to or more stringent than the CLIA requirements at §§ 493.801 through 493.865. Consistent with the CLIA requirements, all of the CAP's accredited laboratories are required to participate in an HHS-approved PT program for tests listed in subpart I. CLIA exempts waived testing from PT, whereas the CAP requires its accredited laboratories to participate in a PT program for test systems waived under CLIA.

C. Subpart J—Facility Administration for Nonwaived Testing

The CAP requirements are equal to or more stringent than the CLIA requirements at §§ 493.1100 through 493.1105. CAP is more stringent than CLIA in its specific requirements for the Laboratory Information System that include requirements for computer facility, hardware and software, system security, patient data, auto verification, data retrieval and preservation, interfaces, and telepathology.

D. Subpart K—Quality System for Nonwaived Testing

We have determined that the quality control requirements of the CAP are more stringent than the CLIA requirements at §§ 493.1200 through 493.1299. The CAP lists extensive requirements for the methodologies of clinical biochemical genetics, molecular pathology and flow cytometry, which are presented in separate checklists. The CAP's control procedure requirements for molecular testing and histocompatibility are more specific and detailed than the CLIA requirements for control procedures. Laboratories accredited by the CAP, performing waived testing must follow the same requirements that apply to non-waived testing for procedure manuals, specimen handling, results reporting, instruments, and equipment. Under CLIA, the subpart K Quality System requirements do not apply to waived testing.

E. Subpart M—Personnel for Nonwaived Testing

We have determined that the CAP requirements are equal to or more stringent than the CLIA requirements at §§ 493.1403 through 493.1495 for laboratories that perform moderate and high complexity testing. For certain types of testing, such as molecular testing, the experience requirements for General Supervisor are more closely related to the specific testing technology than the CLIA requirements. The CAP requires training and annual competency assessment for staff who perform waived testing. CLIA regulations do not contain such requirements for persons performing waived testing.

F. Subpart Q—Inspection

We have determined that the CAP inspection requirements are equal to or more stringent than the CLIA requirements at §§ 493.1771 through 493.1780. The CAP will continue to conduct biennial onsite inspections. During the onsite inspection, the CAP requires that the inspector meet with the hospital administrator or medical staff to obtain their feedback on the laboratory service. The CAP also requires a mid-cycle self-inspection of all accredited laboratories. CLIA regulations do not contain these requirements.

G. Subpart R—Enforcement Procedures

We have determined that the CAP meets the requirements of subpart R to the extent that it applies to accreditation organizations. The CAP's policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, the CAP will deny, suspend, or revoke accreditation in a laboratory accredited by the CAP and report that action to us within 30 days. The CAP also provides an appeals process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that the CAP's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The federal validation inspections of laboratories accredited by the CAP may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by CMS or our agents, or the state survey agencies, will be our principal means for verifying that the laboratories accredited by the CAP remain in compliance with CLIA requirements. This federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of the CAP, for cause, before the end of the effective date of approval. If we determine that the CAP has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which the CAP would be allowed to address any identified issues. Should the CAP be unable to address the identified issues within that timeframe, we may, in accordance with the applicable regulations, revoke the CAP's deeming authority under CLIA.

Should circumstances result in our withdrawal of the CAP's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This notice does not impose any information collection and record keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA. The requirements associated with the accreditation process for clinical laboratories under the CLIA program, and the implementing regulations in 42 CFR part 493, subpart E, are currently approved under OMB control number 0938–0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

The Acting Administrator of the Centers for Medicare & Medicaid Services (CMS), Elizabeth Richter, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: March 24, 2021.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–06439 Filed 3–26–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3404–FN]

Medicare and Medicaid Programs; Application From the Joint Commission for Continued Approval of Its Hospice Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve The Joint Commission for continued recognition as a national accrediting organization for hospices that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this notice is effective on June 18, 2021 through June 18, 2025.

FOR FURTHER INFORMATION CONTACT: Caecilia Blondiaux, (410) 786–2190.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a hospice provided certain requirements are met. Section 1861(dd) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as a hospice. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 418 specify the minimum conditions that a hospice must meet to participate in the Medicare program.

Generally, to enter into an agreement, a hospice must first be certified by a state survey agency (SA) as complying with the conditions or requirements set forth in part 418 of our regulations. Thereafter, the hospice is subject to regular surveys by a SA to determine whether it continues to meet these requirements. There is an alternative; however, to surveys by SAs.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by Centers for Medicare & Medicaid Services (CMS)-approved national accrediting organization (AO) that all applicable Medicare requirements are met or exceeded, we will deem those provider entities as having met such requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national AO applying for approval of its accreditation program under part 488, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AOs are set forth at §§ 488.4 and 488.5. The regulations at § 488.5(e)(2)(i) require AOs to reapply for continued approval of its accreditation program every 6 years or sooner, as determined by CMS.

The Joint Commission's (TJC's) current term of approval for their hospice accreditation program expires June 18, 2021.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, along with any documentation necessary to make our determination, to complete our survey and review activities. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish notice in the **Federal Register** of our decision to approve or deny the application.

III. Provisions of the Proposed Notice

On November 9, 2020, we published a proposed notice in the **Federal Register** (85 FR 71343), announcing TJC's request for continued approval of its Medicare hospice accreditation program. In the November 9, 2020 proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of TJC's Medicare hospice accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of TJC's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its hospice surveyors; (4) ability to investigate and respond appropriately to complaints against accredited hospices; and (5) survey review and decision-making process for accreditation.
- The comparison of TJC's Medicare hospice accreditation program standards to our current Medicare hospice conditions of participation (CoPs).
- A documentation review of TJC's survey process to do the following:

++ Determine the composition of the survey team, surveyor qualifications, and TJC's ability to provide continuing surveyor training.

++ Compare TJC's processes to those we require of SAs, including periodic resurvey and the ability to investigate and respond appropriately to complaints against TJC-accredited hospices.

++ Evaluate TJC's procedures for monitoring and follow up with its accredited hospices, which it has found to have deficiencies and are out of compliance with TJC's program requirements. (This pertains only to monitoring procedures when TJC

identifies non-compliance. If noncompliance is identified by a SA through a validation survey, the SA monitors corrections as specified at § 488.9(c)).

++ Assess TJC's ability to report deficiencies to the surveyed hospice and respond to the hospice's plan of correction in a timely manner.

++ Establish TJC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of TJC's staff and other resources.

++ Confirm TJC's ability to provide adequate funding for performing required surveys.

++ Confirm TJC's policies with respect to surveys being unannounced.

++ Confirm TJC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ Obtain TJC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Responses to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the November 9, 2020 proposed notice also solicited public comments regarding whether TJC's requirements met or exceeded the Medicare CoPs for hospices. No comments were received in response to our proposed notice.

V. Provisions of the Final Notice

A. Differences Between TJC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared TJC's hospice accreditation requirements and survey process with the Medicare CoPs in part 418, and the survey and certification process requirements in parts 488 and 489. Our review and evaluation of TJC's hospice application, which were conducted as described in section III of this final notice, yielded the following areas where, as of the date of this notice, TJC has completed revising its standards and certification processes in order to—

- Meet the standard requirements in all the following regulations:

++ Section 418.52(b)(2), to include language in TJC's comparable standard to specify that if a patient has been adjudged incompetent under state law by a court of proper jurisdiction, as part of the conditions of participation (CoP) relating to patient's rights, the rights of the patient are exercised by the person appointed to act on their behalf.

++ Section 418.52(b)(3), to revise existing language related to the patient's rights CoP; TJC's documentation also refers to a surrogate-decision maker, which may have different implications than the term ''legal representative'' used in regulations.

++ Section 418.52(b)(4)(i) and (ii), to require that the hospice must immediately investigate all alleged violations involving anyone furnishing services on behalf of the hospice, and to include language related to mistreatment (verbal or mental) and misappropriation of patient property and the need to immediately take action to prevent further potential violations while the alleged violation is being verified.

++ Section 418.54, to include language related to all aspects of the required patient-specific comprehensive assessment, including emotional/psychosocial assessment in addition to the pain/symptom assessment; functional status; and general physical assessment, to be included in writing in the initial and comprehensive assessment, to more closely align with the regulatory language.

++ Section 418.56(e), to incorporate language requiring that hospices must develop and maintain a system of communication and integration, in accordance with the hospice's own policies and procedures that reflects its responsibility to direct and coordinate care.

++ Section 418.58(d), to include that hospices must have developed, implemented, and evaluate performance improvement projects.

++ Section 418.60, to include language requiring the hospice to maintain and document an effective infection control program that protects patients, families, visitors, and hospice personnel by preventing and controlling infections and communicable diseases.

++ Section 418.62(c), to add participation in hospice sponsored in-service training under the requirement applicable to licensed professionals.

++ Section 418.64(b)(1), to include comparable language that nursing services must ensure that the nursing needs of the patient are met as identified in the patient's initial assessment, comprehensive assessment, and updated assessments.

++ Sections 418.66(a) and 418.74, to clarify its discussion of the applicable requirements by including specific language related to hospices operating in non-urbanized areas, specifically in regard to physical therapy, occupational therapy, speech-language pathology, and dietary counseling waivers, and the process of submission of such waivers for CMS approval.

++ Section 418.76(c)(5), to include that hospices must maintain documentation demonstrating that hospice aide services are provided by competent individuals.

++ Section 418.76(h)(1), to remove language suggesting that ''If nursing services are not provided, a physical or occupational therapist or speech-language pathologist can supervise the hospice aide'' and to reflect the fact that ''the supervising individual'' must be a Registered Nurse, and is required to make an onsite visit to hospice patients.

++ Sections 418.78(b) and (e) and 418.100(b), to specify the requirements related to daily activities of volunteers.

++ Section 418.100(e) and (g)(3), to specify relevant requirements relating to professional management and training, including adding key terminology relating to financial management and qualified personnel to align with the requirements for organization and administration of services.

++ Section 418.106(d)(1), to include reference to the interdisciplinary group.

++ Section 418.110(f) and (g)(1), to include the term dignity as it relates to the atmosphere set in patient care areas.

++ Section 418.110(m)(1), to appropriately reference the plan of care within TJC's comparable standard.

In addition to the standards review, CMS also reviewed TJC's comparable survey processes, which were conducted as described in section III of this final notice, and yielded the following areas where, as of the date of this notice, TJC has completed revising its survey processes in order to demonstrate that it uses survey processes comparable to SA processes by taking the following steps:

++ Removing language in award letters or communications with TJC's accredited hospices, which referenced ''lengthen the duration of the cycle'' beyond the allowable 36-month period, which is inconsistent with the regulatory requirements at § 488.5(a)(4)(i).

++ Providing additional training to surveyors on citing the appropriate levels of noncompliance, as it relates to the scope, manner and degree of deficiencies (condition level versus standard level deficiencies), in the initial comprehensive assessment.

++ Providing additional surveyor training and tools under TJC's Surveyor Technology to ensure surveyors properly document reviews of personnel

files and credentialing as part of the survey process.

B. Term of Approval

Based on our review and observations described in sections III and V of this final notice, we approve TJC as a national accreditation organization for hospices that request participation in the Medicare program. The decision announced in this final notice is effective June 18, 2021 through June 18, 2025 (4 years). Due to travel restrictions and the reprioritization of survey activities brought on by the 2019 Novel Coronavirus Disease (COVID–19) Public Health Emergency (PHE), CMS was unable to observe a hospice survey completed by TJC surveyors as part of the application review process, which is one component of the comparability evaluation. Therefore, we are providing TJC with a shorter period of approval. Based on our discussions with TJC and the information provided in its application, we are confident that TJC will continue to ensure that its accredited hospices will continue to meet or exceed Medicare standards. While TJC has taken actions based on the findings annotated in section V.A. of this final notice, (Differences Between TJC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements) as authorized under § 488.8, we will continue ongoing review of TJC's hospice survey processes and will conduct a survey observation once the COVID–19 PHE has expired.

VI. Collection of Information

This document does not impose information collection requirements, that is, reporting recordkeeping or third party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Acting Administrator of the Centers for Medicare & Medicaid Services (CMS), Elizabeth Richter, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: March 24, 2021.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2021–06413 Filed 3–24–21; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Phase II Evaluation Activities for Implementing a Next Generation Evaluation Agenda for the Chafee Foster Care Program for Successful Transition to Adulthood—Extension (OMB #0970–0489)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) requests an extension to continue data collection for the Phase II Evaluation Activities for Implementing a Next Generation Evaluation Agenda for the Chafee Foster Care Program for Successful Transition to Adulthood (OMB #0970–0489; Previously titled: Phase II Evaluation Activities for Implementing a Next Generation Evaluation Agenda for the Chafee Foster Care Independence Program). Information collection activities requested include interviews, focus group discussions and administrative data collection. There are no changes proposed to the currently approved materials.

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, Office of Planning, Research, and Evaluation (OPRE) requests public comment on a proposed extension to a currently approved information collection for the Chafee Foster Care Program for Successful Transition to Adulthood (previously known as the Chafee Foster Care Independence Program). Activities include preliminary visits to discuss the evaluation process with program administrators and site visits to each program to speak with program leaders, partners, key stakeholders, front-line staff, and participants. These formative evaluations will determine programs' readiness for more rigorous evaluation in the future. The activities and products from this project will help ACF to fulfill the ongoing legislative mandate for program evaluation specified in the Foster Care Independence Act of 1999.

Respondents: Semi-structured interviews will be held with program leaders, partners, stakeholders, front-line staff, and young adults being served by the programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Program Staff Recruitment for Focus Group Participants	96	1	8	768	384
Discussion Guide for program leaders	23	1	1	23	12
Discussion Guide for program partners and stakeholders	14	1	1	14	7
Discussion Guide for program front-line staff	66	1	1	66	33
Focus Group Guide for program participants	240	1	2	480	240

Authority: Title IV–E of the Social Security Act, IV–E § 477(g) (1–2), as amended by the Foster Care Independence Act of 1999.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–06340 Filed 3–26–21; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Request for Assistance for Child Victims of Human Trafficking

AGENCY: Office on Trafficking in Persons, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF), Office on Trafficking in Persons (OTIP) is requesting a three-year extension of the form: Request for Assistance (RFA) for Child Victims of Human Trafficking (OMB #0970–0362, expiration 07/31/2021). Minor revisions have been made to the form, including the addition of a few fields that will enable the OTIP Child Protection Specialist team to better understand the child's specific needs, connect the child to appropriate services, and help ensure the safety of the child.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Trafficking Victims Protection Act (TVPA) of 2000, as amended directs the Secretary of the U.S. Department of Health and Human Services (HHS), upon receipt of credible information that a foreign national minor may have been subjected to a severe form of trafficking in persons and is seeking assistance available to victims of trafficking, to promptly determine if the child is eligible for benefits and services to the same extent as refugees. HHS delegated this authority to the Office on Trafficking in Persons (OTIP).

OTIP developed a form for case managers, attorneys, law enforcement officers, child welfare workers, and other representatives to report these trafficking concerns to HHS in accordance with the TVPA of 2000, as amended, and allow for OTIP to review the concerns and determine eligibility for benefits.

Specifically, the form asks the requester for their identifying information, identifying information for the child, and information describing the potential trafficking concerns. The form takes into consideration the need to compile information regarding a child's experiences in a trauma-informed and child-centered manner and assists the requester in assessing whether the child may have been subjected to a severe form of trafficking in persons.

The information provided through the completion of a Request for Assistance (RFA) for Child Victims of Human Trafficking form enables OTIP to make prompt determinations regarding a foreign national minor's eligibility for assistance, facilitate the required consultation process should the minor receive interim assistance, and enable OTIP to assess and address potential child protection issues. OTIP also uses the information provided to respond to congressional inquiries, fulfill federal reporting requirements, and inform policy and program development that is responsive to the needs of victims.

In 2019, OTIP launched Shepherd, an online case management system, to process requests for assistance and certification on behalf of foreign national minor and adult victims of trafficking. If a requester encounters issues submitting a request through Shepherd, they may submit the RFA form to OTIP as a password protected PDF to *childtrafficking@acf.hhs.gov.*

Respondents: Representatives of governmental entities, members of the community, and nongovernmental entities providing social, legal, or protective services to foreign national minors in the United States who may have been subjected to severe forms of trafficking in persons. Furthermore, representatives within the community with a concern that a foreign national minor may have been subjected to severe forms of trafficking in persons may also use the RFA form.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Request for Assistance for Child Victims of Human Trafficking	1,200	1	1	1,200	400

Estimated Total Annual Burden Hours: 400.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: 22 U.S.C. 7105(b).

John M. Sweet, Jr,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–06450 Filed 3–26–21; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Solicitation of Nominations for Membership To Serve on the Advisory Committee on Interdisciplinary, Community-Based Linkages

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for nominations.

SUMMARY: HRSA is seeking nominations of qualified candidates for consideration for appointment as members of the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL or Committee). The ACICBL provides advice and recommendations to the Secretary of the Department of Health and Human Services (Secretary) concerning policy and program development, and other significant matters related to activities under Part D, Title VII of the Public Health Service (PHS) Act. Per authorizing legislation, the ACICBL currently focuses on the following program areas and/or disciplines: Area Health Education Centers; Geriatrics; Allied Health; Chiropractic; Podiatric Medicine; Mental and Behavioral Health, including Social Work and Graduate Psychology; and Rural Health.

Authority: The ACICBL is required by section 757 (42 U.S.C. 294f) of the PHS Act. Except where otherwise indicated, the Committee is governed by provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. Appendix 2), as amended, which sets forth standards for the formation and use of advisory committees.

DATES: Nominations for membership on the ACICBL must be received on or before the end of the fiscal year.

ADDRESSES: Nomination packages must be electronically submitted to the Designated Federal Official (DFO), Shane Rogers, at email: *BHWAdvisoryCouncil@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: Shane Rogers, DFO, Division of Medicine and Dentistry, Bureau of Health Workforce, email at *SRogers@hrsa.gov* or telephone at 301–443–5260.

SUPPLEMENTARY INFORMATION: The ACICBL provides advice and recommendations to the Secretary concerning policy, program development, and other matters of significance related to interdisciplinary, community-based training grant programs authorized under sections 750–760, Title VII, Part D of the PHS Act. The ACICBL prepares an annual report describing the activities conducted during the calendar year, identifying findings and developing recommendations to enhance these Title VII programs. The annual report is submitted to the Secretary and ranking members of the Senate Committee on Health, Education, Labor and Pensions, and the House of Representatives Committee on Energy and Commerce. The ACICBL develops, publishes, and implements performance measures for programs under this part; develops and publishes guidelines for longitudinal evaluations (as described in section 761(d)(2)) for programs under this part and recommends appropriation levels for programs under this part. The ACICBL meets at least 3 times each calendar year. A copy of the current committee membership, charter, and reports can be obtained by accessing the ACICBL website at *https://www.hrsa.gov/advisory-committees/interdisciplinary-community-linkages/index.html.*

Nominations: HRSA is requesting nominations for voting members to serve as Special Government Employees (SGEs). The Secretary appoints ACICBL members with the expertise needed to fulfill the duties of the Committee. The membership requirements are set forth in section 757 of the PHS Act (42 U.S.C. 294f). Members are health professionals from schools of medicine or osteopathic medicine, schools of dentistry, schools of pharmacy, schools of veterinary medicine, schools of public health, schools of podiatry, schools of chiropractic, physician assistant education programs, schools of allied health, and schools of nursing. Interested applicants may self-nominate or be nominated by another individual or organization.

Individuals selected for appointment to the Committee will be invited to serve for 3 years. Members of the ACICBL, as SGEs, receive compensation for performance of their duties on the Committee and reimbursement for per diem and travel expenses incurred for attending ACICBL meetings and/or conducting other business on behalf of the Committee.

The following information must be included in the package of materials submitted for each individual nominated for consideration: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes that qualify the nominee for service in this capacity), a statement that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, research grants, and/or contracts to permit an evaluation of possible sources of conflicts of interest; (2) the nominator's name, address, and daytime telephone number, and the home or work address, telephone number, and email address of the individual being nominated; (3) a current copy of the nominee's curriculum vitae; and (4) a statement of interest from the nominee including any experience with Title VII interdisciplinary, community-based training programs; expertise in the field; and personal desire in participating on a National Advisory Committee. Nomination packages may be submitted directly by the individual being nominated or by the person/organization nominating the candidate.

HHS endeavors to ensure that the membership of the ACICBL is fairly balanced in terms of points of view represented and between the health professions, a broad representation of geographic areas, including balance between urban and rural members, gender, and ethnic and minority groups, as well as individuals with disabilities. At least 75 percent of the members of the Committee are health professionals. Appointments shall be made without discrimination on the basis of age, race, color, national origin, sex, disability, or religion.

Individuals who are selected to be considered for appointment will be required to provide detailed information regarding their financial holdings, consultancies, and research grants or contracts. Disclosure of this information is required in order for ethics officials to determine whether there is a potential conflict of interest between the SGE's public duties as a member of the ACICBL and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations, and to identify any required remedial action needed to address the potential conflict.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–06341 Filed 3–26–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, the 93rd meeting of the National Advisory Council for Human Genome Research open session will be livestreamed and available for viewing to the public from *https://www.genome.gov/event-calendar/93rd-Meeting-of-National-Advisory-Council-for-Human-Genome-Research*. The open session will be on May 17th and the start time will be 11:30 a.m.

The portion of the meeting will also be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Human Genome Research.

Date: May 17–18, 2021.

Closed: May 17, 2021, 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Open: May 17, 2021, 11:30 a.m. to 5:00 p.m.

Agenda: Report from Institute Director and Program Staff.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Closed: May 18, 2021, 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892, (301) 402–0838, *pozzattr@mail.nih.gov.*

Any interested person may file written comments within 15 days after the meeting with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.genome.gov/council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 23, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06373 Filed 3–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Mycology, Parasitology and Pathogenesis.

Date: April 23, 2021.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth M. Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiota and Mucosal Immunity.

Date: April 29, 2021.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michelle Marie Arnold, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1199, *michelle.arnold@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 23, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06375 Filed 3–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, April 01, 2021, 10:00 a.m. to April 02, 2021, 06:00 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on February 26, 2021, 86 FR 11783.

This notice is being amended to make this two-day meeting a three-day meeting. The meeting will now be held from March 31, 2021 to April 2, 2021. The meeting time remains the same. The meeting is closed to the public.

Dated: March 23, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06367 Filed 3–26–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0187]

National Merchant Mariner Medical Advisory Committee; April 2021 Teleconference

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The National Merchant Mariner Medical Advisory Committee (Committee) will meet via teleconference to discuss matters relating to medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research. The meeting will be open to the public.

DATES:

Meeting: The National Merchant Mariner Medical Advisory Committee will meet by teleconference on Monday, April 19, 2021, from 11 a.m. until 3 p.m. (EDT). The teleconference may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than April 12, 2021.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on April 12, 2021, to obtain the needed information. The number of teleconference lines are limited and will be available on a first-come, first-served basis.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comment before the teleconference, please submit your comments no later than April 12, 2021. We are particularly interested in comments on the issues in the ''Agenda'' section below. 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 individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2021–0187]. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information 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). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. David Belliveau, Alternate Designated Federal Officer of the National Merchant Mariner Medical Advisory Committee, telephone 202–372–1208 or email *david.j.belliveau@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* 5 U.S.C. Appendix.

The National Merchant Mariner Medical Advisory Committee Meeting is authorized by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018.* The statutory authority is codified in 46 U.S.C. 15104. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. Appendix) in addition to the provisions applicable to all National Maritime Transportation Advisory Committees in 46 U.S.C. 15109.

The Committee advises the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard on matters related to: (a) Medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners' documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

Agenda

The agenda for the April 19, 2021, teleconference is as follows:

(1) Introduction.

(2) Designated Federal Officer remarks.

(3) Introduction, roll call of Committee members and determination of a quorum.

(4) Remarks from U.S. Coast Guard Leadership.

(5) Swearing in of Committee Members.

(6) Election by committee members of Chair and Vice Chair.

(7) Presentation of Tasks—The Committee will review the tasks presented by the Coast Guard and determine if they will accept the tasks to form Working Groups. The following tasks will be considered for acceptance:

(a) Task Statement 21–X1, Recommendations on Mariner Mental Health (Formerly MEDMAC Task 18–27);

(b) Task Statement 21–X2, Communication Between External Stakeholders and the Mariner Credentialing Program (Formerly MEDMAC Task 18–28);

(c) Task Statement 21–X3, Medical Certifications for Military to Mariner (Formerly MEDMAC Task 19–31);

(d) Task Statement 21–X4, Recommendations on Appropriate Diets and Wellness for Mariners While Onboard Merchant Vessels (Formerly MEDMAC Task 16–24); and

(e) Task Statement 21–X5, Review of Proposed Revisions to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW–F) Medical Standards.

(8) Introduction to Merchant Mariner Medical Regulations and Policy.

(9) Introduction to the National Maritime Center.

(10) Public comment period.

(11) Closing remarks/plans for next meeting.

(12) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-merchant-mariner-medical-advisory-committee-(nmedmac)* no later than April 12, 2021. Alternatively, you may contact Mr. David Belliveau as noted in the **FOR FURTHER INFORMATION** section above.

During the April 19, 2021 teleconference, a public comment period will be held immediately after the introduction to the National Maritime Center, at approximately 2:00 p.m. Public comments will be limited to two minutes per speaker. Please note that the public comments period will end following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: March 24, 2021.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2021–06426 Filed 3–26–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 21–08]

Notice of Finding That Certain Disposable Gloves Produced in Malaysia With the Use of Convict, Forced or Indentured Labor Are Being, or Are Likely To Be, Imported Into the United States

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

ACTION: General notice of forced labor finding.

SUMMARY: This document notifies the public that U.S. Customs and Border Protection (CBP), with the approval of the Secretary of Homeland Security, has determined that certain disposable gloves, have been mined, produced, or manufactured in Malaysia by Top Glove Corporation Bhd with the use of convict, forced or indentured labor, and are being, or are likely to be, imported into the United States.

DATES: This Finding applies to any merchandise described in Section II of this Notice that is imported on or after March 29, 2021. It also applies to merchandise which has already been imported and has not been released from CBP custody before March 29, 2021.

FOR FURTHER INFORMATION CONTACT: Juan M. Estrella, Chief, Operations Branch, Forced Labor Division, Trade Remedy Law Enforcement Directorate, Office of Trade, (202) 325–6087 or *forcedlabor@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307), ''[a]ll goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited.'' Under this section, ''forced labor'' includes ''all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily'' and includes forced or indentured child labor.

The CBP regulations promulgated under the authority of 19 U.S.C. 1307 are found at sections 12.42 through 12.45 of title 19, Code of Federal Regulations (CFR) (19 CFR 12.42–12.45). Among other things, these regulations allow any person outside of CBP to communicate his belief that a certain ''class of merchandise . . . is being, or is likely to be, imported into the United States [in violation of 19 U.S.C. 1307].'' 19 CFR 12.42(a), (b). Upon receiving such information, the Commissioner ''will cause such investigation to be made as appears to be warranted by the circumstances . . . .'' 19 CFR 12.42(d). CBP also has the authority to self-initiate an investigation. 19 CFR 12.42(a). If the Commissioner of CBP finds that the information available ''reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported,'' the Commissioner will order port directors to ''withhold release of any such merchandise pending [further] instructions.'' 19 CFR 12.42(e). After issuance of such a withhold release order, the covered merchandise will be detained by CBP for an admissibility determination, and will be excluded unless the importer demonstrates that the merchandise was not made using labor in violation of 19 U.S.C. 1307. 19 CFR 12.43–12.44. The importer may also export the merchandise. 19 CFR 12.44(a).

These regulations also set forth the procedure for the Commissioner of CBP to issue a Finding when it is determined that the merchandise is subject to the provisions of 19 U.S.C. 1307. Pursuant to 19 CFR 12.42(f), if the Commissioner of CBP determines that merchandise within the purview of 19 U.S.C. 1307 is being, or is likely to be, imported into the United States, the Commissioner of CBP will, with the approval of the Secretary of the Department of Homeland Security (DHS), publish a Finding to that effect in the Customs Bulletin and in the **Federal Register**.[1] Under the authority of 19 CFR 12.44(b), CBP may seize and forfeit imported merchandise covered by a Finding.

On July 15, 2020, CBP issued a withhold release order on ''disposable gloves'' reasonably indicated to be manufactured by forced labor in Malaysia by Top Glove Corporation Bhd. Through its investigation, CBP has determined that there is sufficient information to support a Finding that Top Glove Corporation Bhd is manufacturing disposable gloves with forced labor and that such merchandise is likely being imported into the United States.

II. Finding

A. General

Pursuant to 19 U.S.C. 1307 and 19 CFR 12.42(f), it is hereby determined that certain articles described in paragraph II.B., that are mined, produced, or manufactured in whole or in part with the use of convict, forced, or indentured labor by Top Glove Corporation Bhd in Malaysia, are being, or are likely to be, imported into the United States. Based upon this determination, the port director may seize the covered merchandise for violation of 19 U.S.C. 1307 and commence forfeiture proceedings pursuant to 19 CFR part 162, subpart E, unless the importer establishes by satisfactory evidence that the merchandise was not produced in any part with the use of prohibited labor specified in this Finding.

B. Articles and Entity Covered by This Finding

This Finding covers disposable gloves classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 3926.20.1020, 4015.11.0150, 4015.19.0510, 4015.19.0550, 4015.19.1010, 4015.19.1050, and 4015.19.5000, which are mined, produced or manufactured wholly or in part by Top Glove Corporation Bhd in Malaysia.

The Secretary of Homeland Security has reviewed and approved this Finding.

Dated: March 23, 2021.

Brenda B. Smith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2021–06393 Filed 3–26–21; 8:45 am]

BILLING CODE 9111–14–P

[1] Although the regulation states that the Secretary of the Treasury must approve the issuance of a Finding, the Secretary of the Treasury delegated this authority to the Secretary of Homeland Security in Treasury Order No. 100–16 (68 FR 28322). In Delegation Order 7010.3, Section II.A.3, the Secretary of Homeland Security delegated the authority to issue a Finding to the Commissioner of CBP, with the approval of the Secretary of Homeland Security. The Commissioner of CBP, in turn, delegated the authority to make a Finding regarding prohibited goods under 19 U.S.C. 1307 to the Executive Assistant Commissioner, Office of Trade.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2021–0003; FXES11140800000–212]

Endangered and Threatened Species; Receipt of an Incidental Take Permit Application and Low-Effect Habitat Conservation Plan for the Coastal California Gnatcatcher; Rancho Vista Seniors Project, City of Oceanside, San Diego County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft habitat conservation plan (HCP) and draft categorical exclusion for activities associated with construction of the Rancho Vista Seniors Project. Rancho Vista 2018, LLC (applicant), developed a draft HCP as part of their application for an incidental permit (ITP) under the Endangered Species Act of 1973, as amended. We prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

DATES: To ensure consideration, please send your written comments on or before April 28, 2021.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R8–ES–2021–0003 at *http://www.regulations.gov.*

Submitting Comments: You may submit comments by one of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R8–ES–2021–0003.
- *Email: fw8cfwocomments@fws.gov.* Please reference Rancho Vista Senior Project in the subject line of your email.

We request that you send comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Janet Stuckrath, Fish and Wildlife Biologist, Carlsbad Fish and Wildlife Office, via phone at 760–431–9440 extension 270, or via email at *fw8cfwocomments@fws.gov.*

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), received an application from Rancho Vista 2018, LLC (applicant), for an incidental take permit under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would authorize take of the federally threatened coastal California gnatcatcher (*Polioptila californica californica,* gnatcatcher), incidental to activities associated with the development of the Rancho Vista Seniors Project which includes construction of approximately 29 single-family detached senior housing residences, 3 community recreation areas, open space areas, drainage systems, and other infrastructure improvements on approximately 16.87 acres in San Diego County, California. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

Background

The Service listed the gnatcatcher as threatened on March 30, 1993 (58 FR 16742), and published a revised final rule designating critical habitat on December 19, 2007 (72 FR 72010). Section 9 of the ESA prohibits take of fish and wildlife species listed as endangered (16 U.S.C. 1538). Under the ESA, ''take'' is defined to include the following activities: ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532). Section 4(d) of the ESA allows the Secretary to extend protections for endangered species to those listed as threatened. Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32. Issuance of an ITP also must not jeopardize the existence of federally listed fish, wildlife, or plant species, pursuant to section 7 of the ESA and 50 CFR 402.02. The permittee would receive assurances under our ''No Surprises'' regulations (50 CFR 17.32(b)(5)).

Project

The project is located on a 16.87-acre site in the City of Oceanside in San Diego County, California. The applicant requests a 3-year incidental take permit for permanent impacts to 8.91 acres of occupied gnatcatcher habitat. The applicant proposes to mitigate impacts through the onsite preservation of 5.52 acres of Diegan coastal sage scrub; onsite conversion of 2.43 acres of non-native and disturbed habitats to Diegan coastal sage scrub; and the purchase of mitigation credits sufficient to offset impacts to 2.34 acres of gnatcatcher-occupied coastal sage scrub habitat at an offsite location selected in coordination with and approved by CFWO. The offsite mitigation area will provide equal or higher quality habitat than that found on the project site and will be conserved, managed, and monitored in perpetuity. The applicant also proposes to implement measures to minimize the effects of construction activities on the gnatcatcher.

Our Preliminary Determination

The Service has made a preliminary determination that neither the issuance of the ITP nor the implementation of the project is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), nor will they individually and cumulatively have more than a minor or negligible effect on the gnatcatcher and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion as provided by our NEPA regulations at 43 CFR 46.205 and 46.215.

Next Steps

We will evaluate the proposed HCP and any comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, we will issue the permit to the applicant for incidental take of the gnatcatcher.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1539 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Scott Sobiech,

Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2021–06359 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2020–N148; FXES11140200000–212–FF02ENEH00]

Draft Environmental Assessment and Habitat Conservation Plan; CPS Energy Programmatic Habitat Conservation Plan, Bexar County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce that CPS Energy has applied for an incidental take permit (ITP) under the Endangered Species Act (ESA) that would authorize incidental take of one endangered songbird, the golden-cheeked warbler, and eight endangered karst invertebrates. We make available a draft environmental assessment (dEA) under the National Environmental Policy Act and a habitat conservation plan (HCP) for CPS Energy's covered activities in and around San Antonio, Bexar County, Texas. The dEA evaluates the impacts of, and alternatives to, implementation of the proposed HCP.

DATES: To ensure consideration, written comments must be received or postmarked on or before 11:59 p.m. eastern time on April 28, 2021. We may not consider any comments we receive after the closing date in the final decision on this action.

ADDRESSES: *Accessing Documents:*

Internet: The *dEA and HCP:* You may obtain electronic copies of these documents on the Service's website at *https://www.fws.gov/southwest/es/AustinTexas/.*

U.S. Mail: You may obtain the documents by writing to the following addresses. In your request for documents, please reference CPS Energy HCP.

- *DEA and HCP:* A limited number of CD–ROM and printed copies of the dEA and HCP are available, by request, from Mr. Adam Zerrenner, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758; telephone 512–490–0057; fax 512–490–0974.
- *ITP Application:* The ITP application is available by mail from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; Attention: Environmental Review Branch.

Submitting Comments: Regarding any of the documents available for review, you may submit written comments by one of the following methods. In your comments, please reference CPS Energy HCP.

- *Email: FW2_AUES_Consult@fws.gov.*
- *Hard Copy:* Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758; telephone 512–490–0057; fax 512–490–0974.

We request that you submit comments by only one of the methods described above.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, by mail at U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758; via phone at 512–490–0057; or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. Take is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct'' (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing such take of endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Background

CPS Energy has applied to the Service for an ITP under section 10(a)(1)(B) of the ESA. The requested ITP, which would be in effect for a period of 30 years, if granted, would authorize incidental take of nine endangered species: Golden-cheeked warbler (*Setophaga* [=*Dendroica*] *chrysoparia*), Madla Cave meshweaver (*Cicurina madla*), Government Canyon Bat Cave spider (*Tayshaneta* [=*Neoleptoneta*] *microps*), Government Canyon Bat Cave meshweaver (*C. vespera*), Helotes mold beetle (*Batrisodes venyivi*), two ground beetles with no common names (*Rhadine exilis* and *Rhadine infernalis*), Robber Baron Cave meshweaver (*C. baronia*), and Cokendolpher cave harvestman (*Texella cokendolpheri*) (collectively the covered species). The proposed incidental take would result from activities associated with otherwise lawful activities, including electric transmission and distribution lines; natural gas transmission and distribution lines; electric or natural gas substations, switching stations, metering stations, and similar site-based facilities; and lighting on public roadways (covered activities).

Alternatives

Proposed Action

The proposed action involves the issuance of an ITP by the Service for the covered activities in the permit area, under section 10(a)(1)(B) of the ESA. The ITP would cover ''take'' of the covered species for covered activities within the permit area. An application for an ITP must include an HCP that describes the conservation measures the applicant has agreed to undertake to minimize and mitigate for the impacts of the proposed taking of covered species to the maximum extent practicable. The applicant will fully implement the HCP if approved by the Service. The terms of the HCP and ITP will also ensure that incidental take will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.

No Action Alternative

We have considered one alternative to the proposed action as part of this process: No Action. Under a No Action alternative, the Service would not issue the requested ITP and the applicant would either consult under the ESA on a project-by-project basis, rather than programmatically, or conduct those activities in a manner that avoids incidental take. Additionally, the applicant would not implement the conservation measures as described in the CPS Energy HCP.

Next Steps

We will evaluate the dEA, HCP, and comments we receive to determine whether the ITP application meets the

requirements of section 10(a) of the ESA. We will also evaluate whether issuance of a section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether to issue an ITP. If all necessary requirements are met, we will issue the ITP to the applicant.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Amy L. Lueders,

Regional Director, Southwest Region.

[FR Doc. 2021–06421 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2021–0017; FXES11140400000–212–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink, Orange County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from WP South Acquisitions, LLC (Wood Partners) (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink incidental to construction in Orange County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before April 28, 2021.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2021–0017 at *http://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2021–0017.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2021–0017; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, by telephone at 904–731–3121 or via email at *erin_gawera@fws.gov.* Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application from Wood Partners for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) incidental to the construction of a housing development (project) in Orange County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for public review.

Project

The applicant requests a 5-year ITP to take sand skinks by converting approximately 2.72 acres (ac) of occupied sand skink foraging and sheltering habitat incidental to the construction of a housing development located on a 21.6-ac parcel in Sections 31 and 32, Township 23 South, Range 27 East, on Parcel ID number 32–23–27–0000–00–007 in Orange County, Florida. The applicant proposes to mitigate for take of the sand skinks by purchasing 5.44 credits from the Lake Wales Ridge Conservation Bank or another Service-approved conservation bank. The Service would require the applicant to make this purchase prior to engaging in activities associated with the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including land clearing, infrastructure building, landscaping, and the proposed mitigation measure, would individually and cumulatively have a minor or negligible effect on sand skinks and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP is low effect under our NEPA regulations at 43 CFR 45.4405 and 45.4410. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant

to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0002676 to WP South Acquisitions, LLC.

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Jay Herrington,

Field Supervisor, Jacksonville Field Office.

[FR Doc. 2021–06355 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2020–0016; FXES11140400000–212–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink and Blue-Tailed Mole Skink; Polk County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Forestar Group, Inc. (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink and blue-tailed mole skink incidental to the construction of a residential development in Polk County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before April 28, 2021.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2021–0016 at *http://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2021–0016.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2021–0016; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Alfredo Begazo, by U.S. mail (see **ADDRESSES**) or via phone at 772–469–4234. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application from Forestar Group, Inc. (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) and blue-tailed mole skink (*Eumeces egregious lividus*) (skinks) incidental to the construction of a residential development in Polk County, Florida. We request public comment on the application, which includes the applicant's HCP, and on the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

The applicant requests a 5-year ITP to take skinks through the conversion of approximately 0.82 acre of occupied skink foraging and sheltering habitat incidental to the construction of a residential development on a 32-acre parcel in Section 17, Township 29S, Range 26E in Polk County, Florida. The applicant proposes to mitigate for take of the skinks by purchasing credits equivalent to 1.64 acres of skink-occupied habitat from a Service-approved conservation bank. The Service would require the applicant to purchase the credits prior to engaging in any phase of the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including the construction of single-family homes, paved roads, green areas, storm water ponds, and associated infrastructure (*e.g.,* electric, water, and sewer lines), would individually and cumulatively have a minor or negligible effect on the skinks and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP would be low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number TE88352D–0 to Forestar Group, Inc. for incidental take of skinks.

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Roxanna Hinzman,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. 2021–06354 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2021–0020; FXES11140400000–212–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink and Blue-Tailed Mole Skink; Osceola County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Lennar Homes LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink and blue-tailed mole skink incidental to the construction of a residential development in Osceola County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before April 28, 2021.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2021–0020 at *http://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2021–0020.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2021–0020; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Alfredo Begazo, by telephone at (772) 469–4234 or via email at *alfredo_begazo@fws.gov.* Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application from Lennar Homes LLC for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) and blue-tailed mole skink (*Eumeces egregious lividus*) (skinks) incidental to the construction a residential development in Osceola County, Florida. We request public comment on the application, which includes the applicant's proposed HCP, and on the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

The applicant requests a 10-year ITP to take skinks through the conversion of approximately 6.94 acres of occupied skink foraging and sheltering habitat incidental to the construction of a residential development on a 25.01-acre parcel in Section 14, Township 25 South, Range 27 East, Osceola County, Florida. The applicant proposes to mitigate for take of the skinks by purchasing credits equivalent to 13.88 acres of skink-occupied habitat from a Service-approved conservation bank. The Service would require the applicant to purchase the credits prior to engaging in any phase of the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including the construction of single-family homes, paved roads and driveways, parking and green areas, storm water ponds, and associated infrastructure (*e.g.,* electric, water, and sewer lines) would individually and cumulatively have a minor or negligible effect on the skinks and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP would be low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and, (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0002540 to Lennar Homes LLC for incidental take of skinks.

Authority

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

Roxanna Hinzman,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. 2021–06352 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2021–0005; FXES11140300000–212]

Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Habitat Conservation Plan for the Hine's Emerald Dragonfly, Blanding's Turtle, Spotted Turtle, Leafy Prairie Clover, and Lakeside Daisy, Will County, Illinois

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Hanson Aggregates Midwest, Inc. d/b/a Hanson Material

Service (applicant) for an incidental take permit (ITP) under the Endangered Species Act. We make available for public comment the applicant's habitat conservation plan (HCP) for continued limestone surface mining, submitted in support of the ITP application, for the Hine's emerald dragonfly, Blanding's turtle, spotted turtle, leafy prairie clover, and Lakeside Daisy (covered species). If approved, the ITP would be for a 30-year period and would authorize the incidental take of an endangered species, the Hine's emerald dragonfly, and species petitioned for Federal listing that are listed as endangered by the State of Illinois, the Blanding's turtle and spotted turtle. We also announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act. We request public comment on the application and associated documents.

DATES: We will accept comments received or postmarked on or before April 28, 2021.

ADDRESSES:

Document availability: Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2021–0005 at *http://www.regulations.gov.*

Comment submission: In your comment, please specify whether your comment addresses the proposed HCP, draft EA, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R3–ES–2021–0005.
- *U.S. mail:* Send comments to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2021–0005; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Louise Clemency, Field Supervisor, Chicago Ecological Services Field Office, U.S. Fish and Wildlife Service, 230 S Dearborn, Suite 2938, Chicago, IL 60604–1507; telephone: 1–312–485–9337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from Hanson Aggregates Midwest, Inc. d/b/a Hanson Material Service (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), for its habitat conservation plan (HCP) for the Hine's emerald dragonfly, Blanding's turtle, spotted turtle, leafy prairie clover, and lakeside daisy (project or HCP). The applicant's mining operation is located in Will County, Illinois and would consists of 49.6 acres of impacts to covered species habitat. The applicant has prepared a habitat conservation plan that describes their continued limestone surface mining operation and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Hine's emerald dragonfly, Blanding's turtle, and spotted turtle. The HCP proposes to restore, enhance, and maintain 354 acres of covered species habitat on the 519 acres of land that will be protected in perpetuity by a deed restriction that may be converted to a conservation easement if a qualified entity agrees to hold the protected acreage. If approved, the ITP would be for a 30-year period and would authorize the incidental take of an endangered species, the Hine's emerald dragonfly (*Somatochlora hineana*), and species petitioned for Federal listing that are listed as endangered by the State of Illinois, the Blanding's turtle (*Emydoidea blandingii*) and spotted turtle (*Clemmys guttata*). The applicant has prepared a HCP that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Hine's emerald dragonfly, Blanding's turtle, and spotted turtle, and impacts to leafy prairie clover and lakeside daisy. We also announce the availability of a draft environmental assessment (EA), which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We request public comment on the application and associated documents.

Background

Section 9 of the ESA and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. Take is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect ''listed animal species,'' or to attempt to engage in such conduct'' (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32. Impacts to plants do not fall under the definition of ''take,'' therefore, the Service cannot authorize incidental take of plants. However, the Service cannot issue an ITP that would jeopardize the continued existence or adversely modify the designated critical habitat of any listed species, including plants, so addressing listed plants in the HCP may be prudent.

Applicant's Proposed Project

The applicant requests a 30-year ITP to take the federally endangered Hine's emerald dragonfly (*Somatochlora hineana*), and species petitioned for Federal listing that are listed as endangered by the State of Illinois: The Blanding's turtle (*Emydoidea blandingii*) and spotted turtle (*Clemmys guttata*). The applicant determined that take is reasonably certain to occur incidental to operation of expanded limestone surface mining located in Will County and consisting of 187 acres of surface mining that will have direct impacts to 49.6 acres of covered species habitat. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the surface mining expansion on the covered species. The biological goals and objectives are to minimize potential take of Hine's emerald dragonflies, Blanding's turtles, and spotted turtles through on-site minimization measures and to provide habitat conservation measures for Hine's emerald dragonflies, Blanding's turtles, and spotted turtles to offset any impacts from operations of the project. The estimated level of take from the project is 49.6 acres of Hine's emerald dragonfly adult critical habitat, three adult Hine's emerald dragonflies, 12 Blanding's turtles, and two spotted turtles over the 30-year ITP duration. To offset the impacts of the taking of Hine's emerald dragonflies, Blanding's turtles, and spotted turtles, the applicant proposes to avoid potential groundwater-related impacts from quarry dewatering, by instituting operational avoidance measures during the mining process, and implement species habitat maintenance, enhancement or restoration on 354 acres. Additionally, 519 acres of land will be permanently protected by a deed restriction and may be converted to a conservation easement if a qualified entity agrees to hold the protected acreage.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: A no-action alternative, the applicant's proposed action, and an early planning mitigation alternative.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(l)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties on the proposed HCP, draft EA and supporting documents during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment including the Hine's Emerald Dragonfly, Blanding's Turtle, and the spotted turtle.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on *http://regulations.gov* all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2021–06401 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2020–N132; FXES11140800000–201–FF08EVEN00]

Endangered and Threatened Wildlife and Plants; Draft Habitat Conservation Plan and Draft Categorical Exclusion for the Santa Barbara County Distinct Population Segment of the California Tiger Salamander; Santa Maria Public Airport District Santa Maria Airport Commercial Center Project, Santa Barbara County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft habitat conservation plan (HCP) and draft categorical exclusion (CatEx) for activities associated with an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended. The ITP would authorize take of the Santa Barbara County distinct population segment of the California tiger salamander incidental to activities associated with construction near the Santa Maria Airport in Santa Barbara County, California. The applicant developed the draft HCP as part of their application for an ITP. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

DATES: Written comments should be received on or before April 28, 2021.

ADDRESSES:

Obtaining Documents: You may download a copy of the draft HCP and draft CatEx at *http://www.fws.gov/ventura/,* or you may request copies of the documents by U.S. mail (below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Email: joseph_brandt@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Brandt, Fish and Wildlife Biologist, by email (see **ADDRESSES**), via phone at (805) 677–3324, via the Federal Relay Service at 1–800–877–8339 for TTY assistance, or by mail (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft low-effect screening form and environmental action statement for activities associated with an application for an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The ITP would authorize take of the Santa Barbara County distinct population segment of the California tiger salamander (*Ambystoma californiense*) incidental to activities associated with the construction of commercial urban developed uses over an 28-acre project site near the Santa Maria Airport in Santa Barbara County, California. The site would be fully developed with urban uses and a water detention basin. The applicant developed the draft HCP as part of their application for an ITP. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on all of these documents.

Background

The Service listed the Santa Barbara County DPS of the California tiger salamander as endangered on September 21, 2000 (65 FR 57242).

Section 9 of the ESA prohibits take of fish and wildlife species listed as endangered (16 U.S.C. 1538). Under the ESA, ''take'' is defined to include the following activities: ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532). Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.22. Issuance of an ITP also must not jeopardize the existence of federally listed fish, wildlife, or plant species, pursuant to section 7 of the ESA and 50 CFR 402.02. The permittee would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(5)).

Proposed Activities

The applicant has applied for a permit for incidental take of the Santa Barbara County DPS of the California tiger salamander. The take would occur in association with the construction of commercial urban developed uses over an 28-acre project site near the Santa Maria Airport in Santa Barbara County, California.

The HCP includes avoidance and minimization measures for the Santa Barbara County DPS of the California tiger salamander and mitigation for unavoidable loss of habitat. As mitigation, the applicant proposes to purchase credits from a Service-approved conservation bank.

Public Availability of Comments

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 view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Stephen Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2021–06454 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2020–0121; FXES11140300000–212]

Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Bitter Ridge Wind Farm, Jay County, Indiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) have received an application from Scout Clean Energy's Bitter Ridge Wind Farm, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act (ESA), for its Bitter Ridge Wind Farm (project). The applicant requests the ITP, which would be for a 35-year period, for the take of the federally listed endangered Indiana bat and threatened northern long-eared bat incidental to the otherwise lawful activities associated with the Bitter Ridge Wind Farm. The applicant proposes a conservation program to minimize and mitigate for the unavoidable incidental take as described in their Habitat Conservation Plan. The Service requests public comment on the application, which includes the applicant's proposed HCP, and the Service's draft environmental assessment, prepared pursuant to the National Environmental Policy Act (NEPA). The Service provides this notice to seek comments from the public and Federal, Tribal, State and local governments.

DATES: We will accept comments received or postmarked on or before April 28, 2021.

ADDRESSES:

Document availability: Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2020–0121 at *http://www.regulations.gov.*

Comment submission: In your comment, please specify whether your comment addresses the proposed HCP, draft EA, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–R3–ES–2020–0121.
- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2020–0121; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Scott Pruitt, Field Supervisor, Bloomington, Indiana, Ecological Services Field Office, U.S. Fish and Wildlife Service, 620 South Walker Street, Bloomington, IN 47403; telephone: 812–334–4261, extension 214; or Andrew Horton, Regional HCP Coordinator, U.S. Fish and Wildlife Service—Interior Region 3, 5600 American Blvd., West, Suite 990, Bloomington, MN 55437–1458; telephone: 612–713–5337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the ''take'' of animal species listed as endangered or threatened. Take is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect ''listed animal species,'' or to attempt to engage in such conduct'' (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Applicant's Proposed Project

The applicant requests a 35-year ITP for take of the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*). The applicant determined that wind farm activities on this land are reasonably certain to result in incidental take of these federally listed covered species. Activity that

could result in incidental take if Indiana bats and northern long eared bats is the operation of 52 wind turbines currently being constructed in Jay County, Indiana, consisting of approximately 22,170 acres of private land. The estimated level of take from the project is 69 Indiana bats and 45 northern long-eared bats over the 35-year project duration.

The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of Indiana bats and northern long-eared bats through on-site minimization measures and to provide habitat conservation measures for Indiana bats and northern long-eared bats to offset any impacts from operations of the project. On-site minimization measures include feathering turbine blades up to 3.0 meters per second (m/s) during winter and spring (October 16–May 15), up to 5.0 m/s during fall (August 1–October 15), and up to 5.0 m/s at 39 turbines with risk and 3.0 m/s at the remaining turbines during summer (May 16–July 31). Minimization measures will be implemented nightly from ½ hour before sunset to ½ hour after sunrise when the temperature is above 10 °C. To offset the impacts of the taking of Indiana bats and northern long-eared bats, the applicant proposes to protect known maternity colony habitat for both covered species and staging/swarming habitat for Indiana bats. The Service requests public comments on the permit application, which includes a proposed HCP, and an EA prepared in accordance with NEPA.

The applicants' HCP describes the activities that will be undertaken to implement forestry activities, as well as the mitigation and minimization measures proposed to address the impacts to the covered species. Pursuant to NEPA, the EA analyzes the impacts the ITP issuance would have on the covered species and the environment.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: A no-action alternative, the applicant's proposed action, and a more restrictive alternative consisting of feathering at a rate of wind speed that results in less impacts to bats.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(l)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment;

2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and

3. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Because this permit application was sufficiently complete prior to the effective date of the new NEPA regulations, we are exercising our discretion to conduct our NEPA analysis under the regulations in effect prior to September 14, 2020.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on *http://regulations.gov* all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6 (2019); 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2021–06402 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2021–0019; FXES11140400000–212–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink, Orange County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from BB Groves, LLC (applicant) (Serenade at Ovation) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink incidental to construction in Orange County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before April 28, 2021.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2021–0019 at *http://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2021–0019.

• *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2021–0019; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, by telephone at 904–731–3121 or via email at *erin_gawera@fws.gov*. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service, announce receipt of an application from BB Groves, LLC (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) incidental to the construction of a housing development (project) in Orange County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, which are also available for public review.

Project

BB Groves, LLC requests a 5-year ITP to take sand skinks by converting approximately 10.10 acres (ac) of occupied sand skink foraging and sheltering habitat incidental to the construction of a housing development located on a 165.55-ac parcel in Section 30, Township 24 South, Range 27 East, on Parcel ID number 30–24–27–0000–00–003, in Orange County, Florida. The applicant proposes to mitigate for take of the sand skinks by purchasing 20.20 credits from the Lake Wales Ridge Conservation Bank or another Service-approved conservation bank. The Service would require the applicant to make this purchase prior to engaging in activities associated with the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including land clearing, infrastructure building, landscaping, and the proposed mitigation measure, would individually and cumulatively have a minor or negligible effect on sand skinks and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP is low effect under our NEPA regulations at 40 CFR 1506.6 and 43 CFR 46.305. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0002629 to BB Groves, LLC.

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Jay Herrington,

Field Supervisor, Jacksonville Field Office.

[FR Doc. 2021–06353 Filed 3–26–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DT64101000.DSB4A0000.T7AC00.24IA; OMB CONTROL NUMBER 1035–0005]

Agency Information Collection Activities; Tribal Trust Evaluations for Compact Tribes

AGENCY: Office of the Assistant Secretary-Indian Affairs, Bureau of Trust Funds Administration (formerly known as the Office of the Special Trustee for American Indians), Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), we, the Bureau of Trust Funds Administration (BTFA, formerly known as the Office of the Special Trustee for American Indians) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 28, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Nina Alexander, Bureau of Trust Funds Administration Director of Federal Information Resources, 4400 Masthead NE, Albuquerque, NM 87109; or by email to *Nina_Alexander@btfa.gov*. Please reference Office of Management and Budget (OMB) Control Number 1035–0005 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nina Alexander by email at *Nina_Alexander@btfa.gov* or by telephone at 505–273–1620.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: As codified in 25 U.S.C. 4001, The American Indian Trust Fund Management Reform Act of 1994 (the Reform Act) makes provisions for the Bureau of Trust Funds Administration (formerly known as the Office of the Special Trustee for American Indians) to administer trust fund accounts for individuals and tribes. This collection of information is required to fulfill the mission of the Bureau of Trust Funds Administration (BTFA) and the Secretary of the Interior's responsibility for evaluating all Public Law 93–638 Compact Tribes administering or managing trust programs, functions, services, and/or activities on behalf of the Secretary of the Interior. This responsibility is federally mandated pursuant to 25 U.S.C. 458cc(d) and 25 CFR 1000.350. The BTFA, Office of Trust Risk, Evaluation and Compliance currently performs the evaluations by collecting Tribal trust data and documentation from approximately 126 Compacted Tribes. These evaluations are conducted by performing desk reviews (via email questionnaires, and teleconferences), and on-site visits. The results are documented in a final report which is submitted to the Tribe(s) with copies to select government officials. The data is also reported in the annual report to Congress through the Office of Self-Governance.

The original 2018 request for the OMB Form 1035–0005 to be approved included language regarding the automation of the questionnaires that make up the 1035–0005 collection. This would have provided the Compacted Tribes access to the questionnaires through a Tribal Evaluation System (TES) that the Office of the Special Trustee for American Indians (OST) was developing. System development reviews identified a number of problematic issues with TES, including potential vulnerabilities to the system. As a result, the system development ended, which lead to the system being formally decommissioned by OST in 2020. This request for renewal of 1035–0005 is for the continued approved use of the collection (questionnaires) only.

Title of Collection: Tribal Trust Evaluations, 25 CFR 1000.350.

OMB Control Number: 1035.

Form Number: 0005.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Public Law 93–638 Compacted Tribes.

Total Estimated Number of Annual Respondents: 64 Tribes.

Total Estimated Number of Annual Responses: 640.

Estimated Completion Time per Response: 3 hours.

Total Estimated Number of Annual Burden Hours: 1,920.

Respondent's Obligation: Required to Obtain or Maintain a Benefit.

Frequency of Collection: Bi-Annually.

Total Estimated Annual Non-Hour Burden Cost: $71,654.

(64 respondents × average of 10 questionnaires per year × 3 hours per questionnaire = 1,920 × $37.32 (Business and Financial Operations Classification) = $71,654.

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.*).

John Montel,

Associate Chief Information Officer.

[FR Doc. 2021–06418 Filed 3–26–21; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0160]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Verification of Indian Preference for Employment in BIA and IHS

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before April 28, 2021.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, Mail Stop 4513 MIB, Washington, DC 20240; fax: (202) 208–5113; email: *laurel.ironcloud@bia.gov.* Please reference OMB Control Number 1076–0160 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Laurel Iron Cloud by email at *laurel.ironcloud@bia.gov,* or by telephone at (202) 513–7641. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting

comments on this collection of information was published on September 30, 2020 (85 FR 61767). No comments were received.

We are again 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 BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA 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. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BIA is seeking renewal of the approval for the information collection conducted under 25 U.S.C. 43, 36 Stat. 472, inter alia, and implementing regulations, at 25 CFR part 5, regarding verification of Indian preference for employment. The purpose of Indian preference is to encourage qualified Indian persons to seek employment with the BIA and the Indian Health Service (IHS) by offering preferential treatment to qualified candidates of Indian heritage. The BIA collects the information to ensure compliance with Indian preference hiring requirements. The information collection relates only to individuals applying for employment with the BIA and/or IHS. The tribe's involvement is limited to verifying membership information submitted by the applicant. The collection of information allows certain persons who are of Indian descent to receive preference when appointments are made to vacancies in positions with the BIA and the IHS as well as in any unit that has been transferred intact from the BIA to a Bureau or office within the Department of the Interior or the Department of Health and Human Services and that continues to perform functions formerly performed as part of the BIA and the IHS. You are eligible for preference if (a) you are a member of a federally recognized Indian tribe; (b) you are a descendent of a member and you were residing within the present boundaries of any Indian reservation on June 1, 1934; (c) you are an Alaska native; or (d) you possess one-half degree Indian blood derived from tribes that are indigenous to the United States.

Title of Collection: Verification of Indian Preference for Employment in the BIA and the IHS.

OMB Control Number: 1076–0160.

Form Number: BIA 4432.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Qualified Indian persons who are seeking preference in employment with the BIA and the IHS.

Total Estimated Number of Annual Respondents: 5,000 per year, on average.

Total Estimated Number of Annual Responses: 5,000 per year, on average.

Estimated Completion Time per Response: 30 minutes.

Total Estimated Number of Annual Burden Hours: 2,500 hours.

Respondent's Obligation: A response is required to obtain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $7,400.

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*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–06404 Filed 3–26–21; 8:45 am]

BILLING CODE 4337–15–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Committee on Rules of Practice and Procedure; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Committee on Rules of Practice and Procedure; revised notice of open meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a virtual meeting on June 22, 2021 rather than meeting in person. The meeting is open to the public. When a meeting is held virtually, members of the public may join by telephone or video conference to observe but not participate. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.* The announcement for this meeting was previously published in the **Federal Register** on January 26, 2021.

DATES: June 22, 2021, 10 a.m.–5 p.m. (Eastern).

FOR FURTHER INFORMATION CONTACT: Julie Wilson, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: March 23, 2021.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2021–06339 Filed 3–26–21; 8:45 am]

BILLING CODE 2210–55–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, ''O*NET Data Collection Program.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by May 28, 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 Lauren Fairley by telephone at (202) 693–3731 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *fairley.lauren@dol.gov* or by accessing

http://www.onetcenter.org/ombclearance.html.

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—Division of National Programs Tools and Technical Assistance, 200 Constitution Avenue NW, C4526, Washington, DC 20210; by email: *fairley.lauren@dol.gov;* or by fax (202) 693–3015.

FOR FURTHER INFORMATION CONTACT: Contact Lauren Fairley by telephone at (202) 693–3731 (this is not a toll-free number) or by email at *fairley.lauren@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

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 O*NET Data Collection Program is an ongoing effort to collect and maintain current information on the detailed characteristics of occupations and skills for more than 900 occupations. Section 308 of the Workforce Innovation and Opportunity Act (WIOA) authorizes this collection and requires the Secretary of Labor to oversee the ''development, maintenance, and continuous improvement of a nationwide workforce and labor market information system'' which shall include, among other components, ''skill trends by occupation and industry.'' The resulting database provides the most comprehensive standardized source of occupational and skills information in the nation. O*NET information is used by a wide range of audiences, including individuals making career decisions, public agencies and schools providing career exploration services or education and training programs, and businesses making staffing and training decisions. The O*NET system provides a common language, framework and database to meet the administrative needs of various federal programs, including workforce investment and training programs supported by funding from the Departments of Labor, Education, and Health and Human Services.

The O*NET database provides:

- Detailed information for more than 900 occupations.
- Descriptive information using standardized descriptors for skills, abilities, interests, knowledge, work values, education, training, work context, and work activities.
- Occupational coding currently based on the 2018 Standard Occupational Classification (SOC) taxonomy.

The O*NET electronic database and related O*NET products and tools have been incorporated into numerous public and private sector products and resources, examples of O*NET use are presented in the *O*NET Products at Work (PAW)* document at *http://www.onetcenter.org/paw.html.* These products in turn serve millions of customers.

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 No. 1205–0421.

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: Revision.

Title of Collection: O*NET Data Collection Program.

Form: N/A.

OMB Control Number: 1205–0421.

Affected Public: Private sector (for-profit businesses and not-for-profit organizations); State, local and tribal governments, Federal government, Individuals or Households.

Estimated Number of Respondents: 40,942.

Frequency: Varies.

Total Estimated Annual Responses: 40,942.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 16,446 hours.

Total Estimated Annual Other Cost Burden: $0.

Suzan G. LeVine,

Principal Deputy Assistant Secretary.

[FR Doc. 2021–06387 Filed 3–26–21; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of the Extended Benefit (EB) Program for California, District of Columbia, Georgia, Illinois, Louisiana, Massachusetts, Nevada, North Carolina, Ohio, Oregon, and Rhode Island

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

This notice announces changes in benefit period eligibility under the EB program that have occurred since the publication of the last notice regarding the States' EB status:

- Michigan has completed the mandatory 13-week ''on'' period stipulated by 20 CFR 615.11, and no longer meets the 8.0% threshold necessary to remain ''on'' a high

unemployment period in EB. As such, effective February 7, 2021, the maximum potential entitlement for claimants in Michigan in the EB program decreased from 20 weeks to 13 weeks.

- Based on the data released by the Bureau of Labor Statistics on January 26, 2021:

○ The seasonally-adjusted TUR for Rhode Island fell below the 8.0% threshold necessary to remain ''on'' a high unemployment period in EB, and starting February 21, 2021, the maximum potential entitlement for claimants in this state in the EB program will decrease from 20 weeks to 13 weeks, and

○ the seasonally-adjusted TUR for North Carolina and Oregon fell below the 6.5% threshold necessary to remain ''on'' in EB. The payable period in EB for both of these states ended on February 20, 2021.

- Based on the data submitted by Louisiana for the week ending January 2, 2021, Louisiana's 13-week insured unemployment rate (IUR) was 4.86 percent, falling below the 5.0 percent IUR threshold necessary to remain ''on'' EB. Therefore, the EB period for Louisiana ended on January 23, 2021. The state will remain in an ''off'' period for a minimum of 13 weeks.

- Based on the data submitted by Georgia for the week ending January 16, 2021, Georgia's 13-week insured unemployment rate (IUR) was 4.76 percent, falling below the 5.0 percent IUR threshold necessary to remain ''on'' EB. Therefore, the EB period for Georgia ended on February 6, 2021. The state will remain in an ''off'' period for a minimum of 13 weeks.

- In addition, language in state laws of California, District of Columbia, Illinois, Massachusetts, Nevada and Ohio which conditioned the applicability of total unemployment rate (TUR) trigger on full Federal funding resulted in an ''off'' indicator for the week ending December 5, 2020 and the end of any payable period associated with the TUR trigger on December 26, 2020. As such, California, District of Columbia, Illinois, Massachusetts, and Nevada, ended their high unemployment period in EB on December 26, 2020, therefore these states EB program will decrease from 20 weeks to 13 weeks and Ohio triggered ''off'' EB on December 26, 2020.

The trigger notice covering state eligibility for the EB program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.as.*

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an EB period, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13 (c) (1)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4524, Attn: Thomas Stengle, 200 Constitution Avenue NW, Washington, DC 20210, telephone number (202) 693–2991 (this is not a toll-free number) or by email: *Stengle.Thomas@dol.gov*.

Signed in Washington, DC.

Suzan G. LeVine,

Principal Deputy Assistant Secretary for Employment and Training.

[FR Doc. 2021–06385 Filed 3–26–21; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0013]

SolarPTL, LLC: Grant of Renewal of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to grant renewal of recognition to SolarPTL, LLC (PTL) as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The renewal of recognition becomes effective on March 29, 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, 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, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA hereby gives notice that it is granting the renewal of recognition of SolarPTL LLC (PTL) as a NRTL under 29 CFR 1910.7.

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 the 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. OSHA maintains an informational web page for each NRTL that details the scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

OSHA processes applications submitted by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. A II.C. In accordance with these procedures, NRTLs submit a renewal request to OSHA between nine months and one year before the expiration date of the current recognition. A renewal request includes a request for renewal and any additional information demonstrating their continued compliance with the terms of the recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL headquarters and any key sites within the past 18 to 24 months, it will schedule the necessary on-site assessment prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces the preliminary decision to grant or deny renewal in the **Federal Register** and solicits comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

PTL initially received OSHA recognition as a NRTL on March 23,

2011 (76 FR 16452). PTL was previously recognized by OSHA as TUV Rheinland PTL, whose name was changed following a sale to SolarPTL in October 2018. PTL submitted a timely request for renewal, dated April 2, 2015 (OSHA–2010–0013), and has retained their recognition pending OSHA's final decision in this renewal process. OSHA conducted on-site assessments of PTL on February 18–22, 2016, November 14–15, 2017, and January 30–31, 2019, during which it identified nonconformities with 29 CFR 1910.7. Although PTL worked to resolve these nonconformities, it took several years for PTL to demonstrate compliance with 29 CFR 1910.7. The current address of the PTL facility recognized by OSHA and included as part of the renewal request is: SolarPTL, 1007 West Fairmont Avenue, Tempe, Arizona 85252.

OSHA evaluated PTL's application for renewal and made a preliminary determination that PTL can meet the requirements prescribed by 29 CFR 1910.7 for recognition.

OSHA published the preliminary notice announcing PTL's renewal application in the **Federal Register** on February 3, 2021 (86 FR 8042). The agency requested comments by February 18, 2021, and received no comments in response to this notice. OSHA is now proceeding with this final notice to renew PTL's NRTL recognition.

To obtain or review copies of all public documents pertaining to the PTL application, go to *www.regulations.gov* or contact the Docket Office. Docket No. OSHA–2010–0013 contains all materials in the record concerning PTL's NRTL recognition. *Please note:* Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

II. Final Decision and Order

OSHA hereby gives notice of the renewal of recognition of PTL as a NRTL. OSHA examined PTL's renewal application and all pertinent information related to PTL's request for renewal of NRTL recognition. Based on this review of the renewal request and other pertinent information, OSHA finds that PTL meets the requirements of 29 CFR 1910.7 for renewal of recognition as a NRTL, subject to the specified limitation and conditions. OSHA limits the renewal of PTL's recognition to include the terms and conditions of PTL's recognition found in 76 FR 16452. The NRTL scope of recognition for PTL is also available on the OSHA website at: *https://www.osha.gov/dts/otpca/nrtl/ptl.html.* This renewal extends PTL's recognition as a NRTL for a period of five years from March 29, 2021.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, PTL must abide by the following conditions of recognition:

1. PTL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in their operations as a NRTL, and provide details of the change(s);

2. PTL must agree to increased OSHA oversight of their operations including:

(a) More frequent on-site assessments of PTL facilities; and

(b) PTL shall continue to provide OSHA with written notification of any new or revised NRTL certificates that it issues, within 7 calendar days of issuing the certification. This notification shall include:

(i) Name and address of the applicant;

(ii) Model number(s) for the certified products;

(iii) PTL Certification number;

(iv) PTL Project number;

(v) Name(s) of PTL staff involved with the project; and

(vi) Location where the product evaluation and testing took place.

3. Upon request, PTL must provide copies of the test data, certification report and other related information for new or revised certifications to OSHA.

4. PTL must meet all the terms of their recognition and comply with all OSHA policies pertaining to this recognition; and

5. PTL must continue to meet the requirements for recognition, including all previously published conditions on PTL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby renews the recognition of PTL as a NRTL.

III. Authority and Signature

Amanda L. Edens, 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, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on March 18, 2021.

James S. Frederick,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–06386 Filed 3–26–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

Notice of Approved Agency Information Collection; Information Collection: Records To Be Kept by Employers—Fair Labor Standards Act

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA), the Wage and Hour Division (WHD) is providing notice to the public that the WHD sponsored information collection request (ICR) titled, ''Records to be kept by Employers—Fair Labor Standards Act,'' has been approved by the Office of Management and Budget (OMB). WHD is notifying the public that the revision to this ICR is effective immediately and approved through November 30, 2022.

DATES: OMB approval of the revision of this ICR is effective immediately with an expiration date of November 30, 2022.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Division of Regulations, Legislation, and Interpretations, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number), or send an email to *WHDPRAComments@dol.gov.* Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION: The Department of Labor published the final rule, Tip Regulations under the Fair Labor Standards Act, on December 30, 2020 (85 FR 86756). The final rule explains the impact of the Consolidated Appropriations Act, 2018 (CAA) amendments to sections 3(m), 16(b), 16(c), and 16(e) of the FLSA. The amendments, among other things, prohibit employers from keeping employee tips. The Department submitted the ICR to OMB at the time of publication of the final rule. The ICR was previously submitted with the notice of proposed rulemaking under a duplicate control number 1235–0030, and OMB asked that the Department resubmit with the final rule after reviewing any comments. Because two separate actions implicating the ICR 1235–0018 were occurring in close proximity to one another, and OMB can

only have one ICR under the same control number open at a time, the Department was encumbered by the need to submit the same package for two separate actions. The addition of 1235–0030 provided a temporary solution for OMB to act on the same collection at the same time. The ICR under control number 1235–0018 was unencumbered at the time of the final rule so the Department submitted the revision to add the burdens from the Tip Regulations final rule.

On February 24, 2021, OMB issued a Notice of Action approving the revision of this ICR under OMB Control Number 1235–0018. Section (k) of 5 CFR 1320.11, ''Clearance of Collections of Information in Proposed Rules'' states, ''[a]fter receipt of notification of OMB's approval, instruction to make a substantive or material change to, disapproval of a collection of information, or failure to act, the agency shall publish a notice in the **Federal Register** to inform the public of OMB's decision.'' This notice fulfills the Department's obligation to notify the public of OMB's approval of ICR.

Dated: March 15, 2021.

Amy DeBisschop,

Director, Division of Regulations, Legislation, and Interpretation.

[FR Doc. 2021–06331 Filed 3–26–21; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[21–016]

KSC COVID–19 Vaccine Scheduling Application

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by April 28, 2021.

ADDRESSES: Written comments and recommendations for this 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 instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email *claire.a.little@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Kennedy Space Center (KSC) has been tasked by National Aeronautics and Space Administration (NASA) to prepare to provide COVID–19 vaccines to a prioritized set of employees. These vaccines could be provided to KSC by either the State of Florida Department of Health (via the Florida State Health Online Tracking System (SHOTS) program) or directly by the Federal Government.

Employee data and other medical data related to the vaccination, is required by the State of Florida to be uploaded to the Florida SHOTS website within 24 hours of vaccination. This data is also required by NASA to be entered into the Agency's CORITY electronic health records system, and subsequently be provide to the Centers for Disease Control and Prevention (CDC).

II. Methods of Collection

Eventbrite will be used to gather a subset of this data electronically directly from the employee during registration in lieu of manual entry based on a completed paper form.

III. Data

Title: KSC COVID–19 Vaccine Scheduling application.

OMB Number: 2700–

Type of Review: New.

Affected Public: Government Contractors and Civil Servants.

Estimated Annual Number of Activities: 1.

Estimated Number of Respondents per Activity: 3,336.

Annual Responses: 3,336.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 278 hours.

Estimated Total Annual Cost: $11,073.60.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2021–06437 Filed 3–26–21; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of March 29, April 5, 12, 19, 26, May 3, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of March 29, 2021

There are no meetings scheduled for the week of March 29, 2021.

Week of April 5, 2021—Tentative

There are no meetings scheduled for the week of April 5, 2021.

Week of April 12, 2021—Tentative

Tuesday, April 13, 2021

9:00 a.m. Briefing on Advanced Reactor Preparedness Through Regulatory Engagement and Research Cooperation (Public Meeting)
(Contact: Nick Difrancesco: 301–415–1115)

Additional Information: Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Week of April 19, 2021—Tentative

There are no meetings scheduled for the week of April 19, 2021.

Week of April 26, 2021—Tentative

There are no meetings scheduled for the week of April 26, 2021.

Week of May 3, 2021—Tentative

There are no meetings scheduled for the week of May 3, 2021.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: March 25, 2021.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021–06551 Filed 3–25–21; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0102]

Information Collection: Public Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Public Records.'' NRC Form 509, ''Statement of Estimated Fees for Freedom of Information Act (FOIA) Request.'' NRC updated one form integral to the agency's Freedom of Information Act (FOIA) process, NRC Form 507, ''Freedom of Information—Privacy Act Record Request Form.''

DATES: Submit comments by April 28, 2021. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0102 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; 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–2019–0102.
- *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.* NRC Form 509 and NRC Form 507 are available in ADAMS under Accession Nos. ML20203M082 and ML20203M081 respectively. The supporting statement is available in ADAMS under Accession No. ML21029A214.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2019–0102 in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Public Records.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on January 8, 2021 (86 FR 1542).

1. *The title of the information collection:* Part 9 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Public Records.''
2. *OMB approval number:* 3150–0043.
3. *Type of submission:* Revision.
4. *The form number if applicable:* NRC Form 509; NRC Form 507.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* FOIA Requesters who have requests that require pre-payment or agree to pay for the processing of their FOIA requests.

7. *The estimated number of annual responses:* 3,803.

8. *The estimated number of annual respondents:* 3,803.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 2,082.

10. *Abstract:* The proposed information collection removes the need for requesters to provide the information they are requesting under FOIA, since it would be duplicative. NRC Form 507 will accompany acknowledgement letters, at which point we are requesting additional information, if necessary, for FOIA requesters to submit proof of identification or third-party release authorizations. Providing NRC Form 509 to a request serves as a notification of the processing fees as it relates to search, review, and duplication. Pursuant to NRC's regulations, 10 CFR 9.40, when fees exceed $25.00 the requester has the opportunity to re-scope their request. Additionally, in response to the FOIA Improvement Act of 2016, in accordance with 10 CFR 9.39, the revised form notifies the requester that if the agency fails to comply with statutory time limits, the agency cannot charge the requester any fees (except in unusual circumstances). In the event that fees are required, the requester can verify their willingness to pay on this form and must submit payment within ten working days of the receipt of the form.

Dated: March 23, 2021.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2021–06342 Filed 3–26–21; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to retirees who elect to provide survivor annuity benefits to a spouse based on post-retirement marriage, and to retiring employees who elect the alternative form of annuity or elect to credit certain service with nonappropriated fund instrumentalities. This notice is necessary to conform the present value factors to changes in the economic and demographic assumptions adopted by the Board of Actuaries of the Civil Service Retirement System.

DATES: The revised present value factors apply to survivor reductions or employee annuities that commence on or after October 1, 2021.

ADDRESSES: Send requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, Office of Healthcare and Insurance, Office of Personnel Management, Room 4316, 1900 E Street NW, Washington, DC 20415, or by email to *actuary@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Several provisions of the Federal Employees' Retirement System (FERS) require reduction of annuities on an actuarial basis. Under each of these provisions, OPM is required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that OPM will publish a notice in the **Federal Register** whenever it changes the factors used to compute the present values of these benefits.

Section 842.706(a) of title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8420a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors listed below are used to compute the annuity reduction under 5 CFR 842.706(a).

Section 842.615 of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage or divorce under 5 U.S.C. 8416(b), 8416(c), or § 8417(b). Under section 11004 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, effective October 1, 1993, OPM ceased collection of these survivor election deposits by means of either a lump-sum payment or installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law and translate it into a lifetime reduction in the retiree's benefit.

Subpart F of part 847 of title 5, Code of Federal Regulations, prescribes the use of present value factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under section 1043 of Public Law 104–106. Subpart I of part 847 of title 5, Code of Federal Regulations, prescribes the use of present value factors for employees that elect to credit nonappropriated fund instrumentality service to qualify for immediate retirement under section 1132 of Public Law 107–107.

OPM published the present value factors currently in effect on April 6, 2020, at 85 FR 19175. On March 29, 2021, OPM published a notice to revise the normal cost percentage under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, based on changed assumptions adopted by the Board of Actuaries of the Civil Service Retirement System. Under 5 U.S.C. 8461(i), those changes require corresponding changes in the present value factors used to produce actuarially equivalent benefits when required by the FERS Act. The revised factors will become effective on October 1, 2021, to correspond with the changes in FERS normal cost percentages. For alternative forms of annuity, the new factors will apply to annuities that commence on or after October 1, 2021. See 5 CFR 842.706. For survivor election deposits, the new factors will apply to survivor reductions that commence on or after October 1, 2021. See 5 CFR 842.615(b). For obtaining credit for service with certain nonappropriated fund instrumentalities, the new factors will apply to cases in which the date of computation under 5 CFR 847.603 or 847.809 is on or after October 1, 2021. See 5 CFR § 842.602, 842.616, 847.603, and § 847.809.

OPM is, therefore, revising the tables of present value factors to read as follows:

TABLE I—FERS PRESENT VALUE FACTORS FOR AGES 62 AND OLDER

[Applicable to annuity payable following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
62	224.7
63	218.0
64	211.3
65	204.5

TABLE I—FERS PRESENT VALUE FACTORS FOR AGES 62 AND OLDER—Continued

[Applicable to annuity payable following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
66	197.7
67	190.8
68	183.9
69	176.9
70	170.0
71	163.0
72	156.1
73	149.2
74	142.4
75	135.7
76	129.0
77	122.5
78	116.1
79	109.7
80	103.6
81	97.6
82	91.7
83	86.1
84	80.6
85	75.3
86	70.3
87	65.5
88	60.9
89	56.7
90	52.6
91	48.9
92	45.4
93	42.2
94	39.2
95	36.5
96	34.0
97	31.7
98	29.7
99	27.9
100	26.3
101	24.8
102	23.3
103	21.9
104	20.4
105	18.9
106	17.0
107	14.2
108	9.5
109	6.4

TABLE II.A—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61

[Applicable to annuity payable when annuity is not increased by cost-of-living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
40	270.0
41	268.3
42	266.6
43	264.9
44	263.1

TABLE II.A—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61—Continued

[Applicable to annuity payable when annuity is not increased by cost-of-living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
45	261.3
46	259.4
47	257.5
48	255.6
49	253.7
50	251.7
51	249.7
52	247.6
53	245.5
54	243.3
55	241.2
56	239.0
57	236.7
58	234.4
59	232.0
60	229.6
61	227.2

TABLE II.B—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61

[Applicable to annuity payable when annuity is increased by cost-of-living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416 (c), 8417(b), or 8420a, under section 1043 of Public Law 104–106, or under section 1132 of Public Law 107–107]

Age	Present value factor
40	353.0
41	347.9
42	342.7
43	337.4
44	332.1
45	326.7
46	321.2
47	315.7
48	310.1
49	304.5
50	298.8
51	293.0
52	287.2
53	281.2
54	275.3
55	269.2
56	263.1
57	257.0
58	250.7
59	244.3
60	237.9
61	231.3

TABLE III—FERS PRESENT VALUE FACTORS FOR AGES AT CALCULATION BELOW 40

[Applicable to annuity payable following an election under section 1043 of Public Law 104–106 or under section 1132 of Public Law 107–107]

Age at calculation	Present value of a monthly annuity
17	444.2
18	441.1
19	438.0
20	434.7
21	431.5
22	428.1
23	424.7
24	421.2
25	417.6
26	413.9
27	410.2
28	406.3
29	402.4
30	398.4
31	394.3
32	390.1
33	385.8
34	381.4
35	377.0
36	372.4
37	367.7
38	362.9
39	358.0

Office of Personnel Management

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–06324 Filed 3–26–21; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to retirees under the Civil Service Retirement System (CSRS) who elect to provide survivor annuity benefits to a spouse based on post-retirement marriage; to retiring employees who elect the alternative form of annuity, owe certain redeposits based on refunds of contributions for service ending before March 1, 1991, or elect to credit certain service with nonappropriated fund instrumentalities; or, for individuals with certain types of retirement coverage errors who can elect to receive credit for service by taking an actuarial reduction under the provisions of the Federal Erroneous Retirement

Coverage Correction Act. This notice is necessary to conform the present value factors to changes in the economic and demographic assumptions adopted by the Board of Actuaries of the Civil Service Retirement System.

DATES: The revised present value factors apply to survivor reductions or employee annuities that commence on or after October 1, 2021.

ADDRESSES: Send requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, Office of Healthcare and Insurance, Office of Personnel Management, Room 4316, 1900 E Street NW, Washington, DC 20415, or by email to *actuary@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Several provisions of CSRS require reduction of annuities on an actuarial basis. Under each of these provisions, OPM is required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that OPM will publish a notice in the **Federal Register** whenever it changes the factors used to compute the present values of these benefits.

Section 831.2205(a) of title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8343a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors listed below are used to compute the annuity reduction under section 831.2205(a) of title 5, Code of Federal Regulations.

Section 831.303(c) of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction to complete payment of certain redeposits of refunded deductions based on periods of service that ended before March 1, 1991, under section 8334(d)(2) of title 5, United States Code; section 1902 of the National Defense Authorization Act for Fiscal Year 2010, Public Law 111–84.

Section 831.663 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage under section 8339(j)(5)(C) or (k)(2) of title 5, United States Code. Under section 11004 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, effective October 1, 1993, OPM ceased collection of these survivor election deposits by means of either a lump-sum payment or installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law and translate it into a lifetime reduction in the retiree's benefit.

Subpart F of part 847 of title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under section 1043 of Public Law 104–106. Subpart I of part 847 of title 5, Code of Federal Regulations, prescribes the use of present value factors for employees that elect to credit nonappropriated fund instrumentality service to qualify for immediate retirement under section 1132 of Public Law 107–107.

Sections 839.1114–1121 of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction required for certain service credit deposits, Government Thrift Savings Plan contributions, or for previous payment of the FERS Basic Employee Death Benefit in annuities subject to the Federal Erroneous Retirement Coverage Corrections Act (FERCCA) under the provisions of Public Law 106–265. Retirees and survivors who owe a larger deposit because of a retirement coverage error can choose to pay the additional deposit amount or their annuity will be actuarially reduced to account for the deposit amount that remains unpaid. Additionally, retirees and survivors of deceased employees who received Government contributions to their Thrift Savings Plan account after being corrected to FERS and who later elect CSRS Offset under FERCCA keep the Government contributions and associated earnings in their Thrift Savings Plan account. Instead of adjusting the Thrift Savings Plan account, FERCCA requires that the CSRS-Offset annuity be actuarially reduced. Also, survivors that received the FERS Basic Employee Death Benefit and elect CSRS Offset under FERCCA do not have to pay back the Basic Employee Death Benefit. Instead, OPM actuarially reduces the survivor annuity payable. These reductions under FERCCA allow the annuity to be actuarially reduced in a way that, on average, allows the Fund to recover the amount of the missing lump sum over the recipient's lifetime.

The present value factors currently in effect were published by OPM on April 6, 2020, at 85 FR 19171. On March 29, 2021, OPM published a notice to revise the normal cost percentage under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, based on changed assumptions adopted by the Board of Actuaries of the CSRS. Those changes require corresponding changes in present value factors used to produce actuarially equivalent benefits when required by the Civil Service Retirement Act. The revised factors will become effective on October 1, 2021. For alternative forms of annuity and redeposits of employee contributions, the new factors will apply to annuities that commence on or after October 1, 2021. See 5 CFR 831.2205 and 831.303(c). For survivor election deposits, the new factors will apply to survivor reductions that commence on or after October 1, 2021. See 5 CFR 831.663(c) and (d). For obtaining credit for service with certain nonappropriated fund instrumentalities, the new factors will apply to cases in which the date of computation under sections 847.603 or 847.809 of title 5, Code of Federal Regulations, is on or after October 1, 2021. See 5 CFR § 842.602, 842.616, 847.603, and § 847.809. For retirement coverage corrections under FERCCA, the new factors will apply to annuities that commence on or after October 1, 2021, or in the case of previous payment of the Basic Employee Death Benefit, the new factors will apply to deaths occurring on or after October 1, 2021. See 5 CFR 839.1114–1121 and 5 CFR 831.303(d).

OPM is, therefore, revising the tables of present value factors to read as follows:

CSRS Present Value Factors Applicable to Annuity Payable Following an Election Under Section 8339(j) or (k) or Section 8343a of Title 5, United States Code, or Under Section 1043 of Public Law 104–106 or Under Section 1132 of Public Law 107–107 or Under FERCCA or Following a Redeposit Under Section 8334(d)(2) of Title 5, United States Code

Age	Present value factor
40	390.1
41	383.9
42	377.6
43	371.2

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 8339(j) OR (k) OR SECTION 8343a OF TITLE 5, UNITED STATES CODE, OR UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR UNDER SECTION 1132 OF PUBLIC LAW 107–107 OR UNDER FERCCA OR FOLLOWING A REDEPOSIT UNDER SECTION 8334(d)(2) OF TITLE 5, UNITED STATES CODE—Continued

Age	Present value factor
44	364.8
45	358.4
46	351.9
47	345.4
48	338.9
49	332.3
50	325.6
51	318.9
52	312.1
53	305.2
54	298.3
55	291.2
56	283.9
57	276.5
58	269.1
59	261.7
60	254.2
61	246.6
62	238.9
63	231.3
64	223.6
65	215.8
66	208.2
67	200.5
68	192.8
69	185.1
70	177.5
71	169.9
72	162.4
73	154.9
74	147.6
75	140.3
76	133.1
77	126.1
78	119.2
79	112.4
80	105.8
81	99.4
82	93.2
83	87.3
84	81.6
85	76.1
86	70.9
87	65.9
88	61.3
89	56.9
90	52.9
91	49.1
92	45.6
93	42.3
94	39.4
95	36.7
96	34.2
97	32.0
98	30.0
99	28.2
100	26.5
101	25.0

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 8339(j) OR (k) OR SECTION 8343a OF TITLE 5, UNITED STATES CODE, OR UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR UNDER SECTION 1132 OF PUBLIC LAW 107–107 OR UNDER FERCCA OR FOLLOWING A REDEPOSIT UNDER SECTION 8334(d)(2) OF TITLE 5, UNITED STATES CODE—Continued

Age	Present value factor
102	23.5
103	22.1
104	20.7
105	19.1
106	17.1
107	14.3
108	9.5
109	6.4

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR UNDER SECTION 1132 OF PUBLIC LAW 107–107 OR UNDER FERCCA (FOR AGES AT CALCULATION BELOW 40)

Age at calculation	Present value of a monthly annuity
17	507.2
18	503.0
19	498.7
20	494.4
21	490.0
22	485.5
23	480.9
24	476.3
25	471.5
26	466.7
27	461.8
28	456.9
29	451.8
30	446.7
31	441.4
32	436.1
33	430.7
34	425.2
35	419.6
36	413.9
37	408.1
38	402.2
39	396.2

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–06326 Filed 3–26–21; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Retirement System; Normal Cost Percentages

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of revised normal cost percentages for employees covered by the Federal Employees' Retirement System (FERS) Act of 1986.

DATES: The revised normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 2021. Agency appeals of the normal cost percentages must be filed no later than September 29, 2021.

ADDRESSES: Send or deliver agency appeals of the normal cost percentages and requests for actuarial assumptions and data to the Board of Actuaries, care of Gregory Kissel, Senior Actuary, Office of Healthcare and Insurance, Office of Personnel Management, Room 4316, 1900 E Street NW, Washington, DC 20415, or by email to *actuary@opm.gov.*

FOR FURTHER INFORMATION CONTACT: Karla Yeakle, (202) 606–0299.

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Public Law 99–335, created a new retirement system intended to cover most Federal employees hired after 1983. Most Federal employees hired before 1984 are under the older Civil Service Retirement System (CSRS). Section 8423 of title 5, United States Code, as added by the FERS Act of 1986, provides for the payment of the Government's share of the cost of the retirement system under FERS. Employees' contributions are established by law and constitute only a portion of the cost of funding the retirement system; employing agencies are required to pay the remaining costs. The amount of funding required, known as ''normal cost,'' is the entry age normal cost of the provisions of FERS that relate to the Civil Service Retirement and Disability Fund (Fund). The normal cost must be computed by OPM in accordance with generally accepted actuarial practices and standards (using dynamic assumptions). The normal cost calculations depend on economic and demographic assumptions. Subpart D of part 841 of title 5, Code of Federal Regulations, regulates how normal costs are determined.

In its meeting on April 2, 2020, the Board of Actuaries of the Civil Service Retirement System (the Board) recommended revisions to the long-term economic assumptions and recommended changes to the demographic assumptions used in the actuarial valuations of CSRS and FERS. The economic assumptions have decreased from the previous long-term economic assumptions. The demographic assumptions include assumed rates of mortality, employee withdrawal, retirement, and merit and longevity pay increases. The Board recommended adjustments to demographic assumptions for employee withdrawal rates and annuitant mortality rates for certain categories of employees. OPM has adopted the Board's recommendations.

Section 211 of Title II, Division E of Public Law 116–94, the Further Consolidated Appropriations Act of 2020, provided for separate normal cost percentages for certain members of the Capitol Police as distinct from other Congressional Employees. As a result, OPM published regulations on September 22, 2020, that revised the categories of employees for computation of normal cost percentages for certain members of the Capitol Police who are covered by the Federal Employees' Retirement System.

With regard to the economic assumptions described under section 841.402 of title 5, Code of Federal Regulations, used in the actuarial valuations of FERS, the Board concluded that it would be appropriate to assume a rate of investment return of 4.0 percent, a reduction of 0.25 percent from the existing rate of 4.25 percent. In addition, the Board determined that the assumed inflation rate should be reduced 0.10 percent from 2.50 percent to 2.40 percent, that the assumed rate of FERS annuitant Cost of Living Adjustments should remain at 80 percent of the assumed rate of inflation, and that the projected rate of General Schedule salary increases should be reduced 0.10 percent from 2.75 percent to 2.65 percent. The general salary increases are in addition to assumed within-grade increases. These assumptions are intended to reflect the long term expected future experience of the Systems.

The demographic assumptions are determined separately for each of a number of special groups, in cases where separate experience data is available. Based on the demographic and economic assumptions described above, OPM has determined the normal cost percentage for each category of employees under section 841.403 of title 5, Code of Federal Regulations.

Section 5001 of Public Law 112–96, The Middle Class Tax Relief and Jobs Creation Act of 2012, established provisions for FERS Revised Annuity Employees (FERS–RAE). The law permanently increases the retirement contributions by 2.30 percent of pay for these employees. Subsequently, Section 401 of Public Law 113–67, the Bipartisan Budget Act of 2013, created another class of FERS coverage, FERS-Further Revised Annuity Employee (FERS–FRAE). Employees subject to FERS–FRAE must pay an increase of 1.30 percent of pay above the retirement contribution percentage set for FERS–RAE. Separate normal cost percentages apply for employees covered under FERS–RAE and for employees covered under FERS–FRAE.

The normal cost percentages for each category of employee, including the employee contributions, are as follows:

NORMAL COST PERCENTAGES FOR FERS, FERS–REVISED ANNUITY EMPLOYEE (RAE), AND FERS–FURTHER REVISED ANNUITY (FRAE) GROUPS

Group	FERS normal cost (percent)	FERS–RAE normal cost (percent)	FERS–FRAE normal cost (percent)
Members	25.6	19.7	19.9
Capitol Police covered under 5 U.S.C. 8412(d) and 5 U.S.C. 8425(c)	38.9	39.4	39.6
Other Congressional employees	27.1	19.7	19.9
Law enforcement officers, members of the Supreme Court Police, firefighters, nuclear materials couriers, customs and border protection officers, and employees under section 302 of the Central Intelligence Agency Retirement Act of 1964 for certain employees	38.9	39.4	39.6
Air traffic controllers	38.8	39.4	39.5
Military reserve technicians	21.9	22.4	22.6
Employees under section 303 of the Central Intelligence Agency Retirement Act of 1964 for certain employees (when serving abroad)	27.0	27.6	27.8
Other employees of the United States Postal Service	17.0	17.5	17.8
All other regular FERS employees	19.2	19.7	19.9

Under section 841.408 of title 5, Code of Federal Regulations, these normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 2021.

The time limit and address for filing agency appeals under sections 841.409 through 841.412 of title 5, Code of Federal Regulations, are stated in the **DATES** and **ADDRESSES** sections of this notice.

Alexys Stanley,

Regulatory Affairs Analyst, Office of Personnel Management.

[FR Doc. 2021–06325 Filed 3–26–21; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–75 and CP2021–78]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 31, 2021.

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

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

SUPPLEMENTARY INFORMATION:

Table of Contents

II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2021–75 and CP2021–78; *Filing Title:* USPS Request to Add Priority Mail Express Contract 87 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 23, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* March 31, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–06411 Filed 3–26–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91389; File No. SR–NYSENAT–2021–05]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Rebates Related to Co-Location

March 23, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19 b–4 thereunder,[3] notice is hereby given that on March 10, 2021, NYSE National, Inc. (''NYSE National'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Rebates (''Fee Schedule'') related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text.

Proposal To Add Additional Third Party Systems and Third Party Data Feeds

The Exchange proposes to amend the co-location[4] services offered by the Exchange to provide Users[5] with access to the systems, and connectivity to the data feeds, of various additional third parties. The Exchange proposes to make the corresponding amendments to the Exchange's Fee Schedule related to these co-location services to reflect these proposed changes.

As set forth in the Fee Schedule, the Exchange charges fees for connectivity to the execution systems of third party markets and other content service providers (''Third Party Systems''), and data feeds from third party markets and other content service providers (''Third Party Data Feeds'').[6] The lists of Third Party Systems and Third Party Data Feeds are set forth in the Fee Schedule.

The Exchange proposes to provide access to the following additional Third Party Systems: Long Term Stock Exchange, Members Exchange, MIAX

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19 b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2018. See Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR–NYSENAT–2018–07) (''NYSE National Co-location Notice''). The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id., supra* note 4, at 26314 n.9. As specified in the Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., and NYSE Chicago, Inc. (together, the ''Affiliate SROs''). *See id.* at 26314 n.11. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca-2021–15, and SR–NYSECHX–2021–05.

[6] *See* NYSE National Co-Location Notice, *supra* note 4, at 26322.

Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade (the ''Proposed Third Party Systems''). The Exchange also proposes to amend the Fee Schedule to change the name of the ''Miami International Securities Exchange'' Third Party System to ''MIAX Options,'' to change the name of the ''MIAX PEARL'' Third Party System to ''MIAX PEARL Options,'' and to combine MIAX Options, MIAX PEARL Options, MIAX PEARL Equities, and MIAX Emerald as a single Third Party System on the Fee Schedule. The list of available Third Party Systems in the Fee Schedule would be amended as follows:

Third party systems
* * * * *
ITG TriAct Matchnow
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
[Miami International Securities Exchange]
MIAX Options, MIAX PEARL *Options, MIAX PEARL Equities, and MIAX Emerald*
Morgan Stanley
Nasdaq
* * * * *
OTC Markets Group
TD Ameritrade
TMX Group

In addition, the Exchange proposes to provide connectivity to data feeds from Members Exchange (the ''Proposed MEMX Third Party Data Feed''), MIAX Emerald (the ''Proposed MIAX Emerald Third Party Data Feed''), MIAX PEARL Equities (the ''Proposed MIAX PEARL Equities Third Party Data Feed''), and ICE Data Services—ICE TMC[7] (the ''Proposed ICE TMC Third Party Data Feed'') (collectively, the ''Proposed Third Party Data Feeds''). The Exchange also proposes to change the name of the current ''Miami International Securities Exchange/MIAX PEARL'' Third Party Data Feed to ''MIAX Options/MIAX PEARL Options'' on the Fee Schedule. Further, the Exchange proposes to delete the ''NASDAQ OMDF'' data feed from the list, as it is no longer offered by the content service provider. Finally, the Exchange proposes to change the name of the current ''SR Labs—SuperFeed'' data feeds to ''Vela—SuperFeed,'' to reflect the content provider's recent change to the name of these products.

The list of available Third Party Data Feeds in the Fee Schedule would be amended as follows:

Third party data feed	Monthly recurring connectivity fee per third party data feed
* * * * * * *	
Global OTC	$100
[ICE Data Global Index*]	[100]
ICE Data Services Consolidated Feed ≤100 Mb	200
* * * * * * *	
ICE Data Services Consolidated Feed Shared Farm >1 Gb	1,000
ICE Data Services—ICE TMC	*200*
ICE Data Services PRD	200
* * * * * * *	
ITG TriAct Matchnow	1,000
Members Exchange (MEMX)	*3,000*
MIAX Emerald	*3,500*
[Miami International Securities Exchange]*MIAX Options*/MIAX PEARL *Options*	2,000
MIAX PEARL Equities	*2,500*
Montréal Exchange (MX)	1,000
* * * * * * *	
NASDAQ OMX Global Index Data Service	100
[NASDAQ OMDF]	[100]
NASDAQ UQDF & UTDF	500
* * * * * * *	
OTC Markets Group	1,000
Vela[SR Labs]—SuperFeed <500 Mb	250
Vela[SR Labs]—SuperFeed >500 Mb to <1.25 Gb	800
Vela[SR Labs]—SuperFeed >1.25 Gb	1,000
TMX Group	2,500
* * * * * * *	

The Exchange would provide access to the Proposed Third Party Systems (''Access'') and connectivity to the Proposed Third Party Data Feeds (''Connectivity'') as conveniences to Users. Use of Access or Connectivity would be completely voluntary.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as such third parties are not required to make that information public. However, the

[7] The Proposed ICE TMC Third Party Data Feed is generated by ICE Bonds, an indirect subsidiary of ICE, and includes market data for the ICE TMC alternative trading system. It does not include market data of the Exchange or Affiliate SROs.

market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. The Exchange is not aware of any impediment to such third parties offering access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds.

If one or more third parties presently offer, or in the future opt to offer, such Access and Connectivity to Users, a User may utilize the ICE Data Services (''IDS'') network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

Access to the Proposed Third Party Systems

The Exchange proposes to revise the Fee Schedule to provide that Users may obtain connectivity to the Proposed Third Party Systems for a fee. As with the current Third Party Systems, Users would connect to the Proposed Third Party Systems over the internet protocol (''IP'') network, a local area network available in the data center.[8]

As with the current Third Party Systems, in order to obtain access to a Proposed Third Party System, the User would enter into an agreement with the relevant Proposed Third Party, pursuant to which the third party content service provider would charge the User for access to the Proposed Third Party System. The Exchange would then establish a unicast connection between the User and the Proposed Third Party System over the IP network.[9] The Exchange would charge the User for the connectivity to the Proposed Third Party System. A User would only receive, and would only be charged for, access to the Proposed Third Party System for which it enters into agreements with the third party content service provider.

The Exchange has no affiliation with the providers of any of the Proposed Third Party Systems. Establishing a User's access to a Proposed Third Party System would not give the Exchange any right to use the Proposed Third Party System. Connectivity to a Proposed Third Party System would not provide access or order entry to the Exchange's execution system, and a User's connection to a Proposed Third Party System would not be through the Exchange's execution system.

Connectivity to the Proposed Third Party Data Feeds

The Exchange proposes to revise the Fee Schedule to provide that Users may obtain connectivity to the Proposed Third Party Data Feeds for a fee. As with the existing connections to Third Party Data Feeds, the Exchange would receive a Proposed Third Party Data Feed from the content service provider at the data center. The Exchange would then provide connectivity to that data to Users for a fee. Users would connect to the Proposed Third Party Data Feeds over the IP network.[10] The Proposed Third Party Data Feeds would include trading information concerning the securities that are traded on the relevant Proposed Third Party Systems.

As with the existing connections to Third Party Data Feeds, in order to connect to a Proposed Third Party Data Feed, a User would enter into a contract with the content service provider, pursuant to which the content service provider may charge the User for the data feed. The Exchange would receive the Proposed Third Party Data Feed over its fiber optic network and, after the content service provider and User entered into an agreement and the Exchange received authorization from the content service provider, the Exchange would retransmit the data to the User over the User's port. The Exchange would charge the User for connectivity to the Proposed Third Party Data Feed. A User would only receive, and would only be charged the fee for, connectivity to a Proposed Third Party Data Feed for which it entered into a contract.

The Exchange has no affiliation with the sellers of the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, or the Proposed MIAX PEARL Equities Third Party Data Feed, and would have no right to use those feeds other than as a redistributor of the data. Similarly, although the Exchange and ICE Bonds—the generator of the Proposed ICE TMC Third Party Data Feed—are both indirect subsidiaries of ICE, the Exchange would have no right to use the Proposed ICE TMC Third Party Data Feed other than as a redistributor of the data. None of the Proposed Third Party Data Feeds would provide access or order entry to the Exchange's execution system. The Proposed Third Party Data Feeds would not provide access or order entry to the execution systems of the third parties generating the feeds. The Exchange would receive the Proposed Third Party Data Feeds via arms-length agreements and would have no inherent advantage over any other distributor of such data.

Proposal To Remove Obsolete Text

Proposal To Remove References to ICE Data Global Index

The Exchange proposes to remove obsolete references to the ICE Data Global Index (the ''GIF'') from the list of Third Party Data Feeds available for connectivity and related text.

In May 2020, ICE, which publishes the GIF, announced to its customers that before the end of 2020, it would cease offering the GIF as a stand-alone product. The Exchange accordingly amended its Fee Schedule to inform customers that it would cease offering connectivity to the GIF once it is no longer available.[11]

ICE has now informed the Exchange that it ceased offering the GIF as a stand-alone product, making the references to the GIF obsolete. The operative date was announced through a customer notice. Accordingly, the Exchange proposes to remove ''ICE Data Global Index*'' and the corresponding asterisked note from the Fee Schedule.

In order to implement the proposed change, the Exchange proposes to make the following changes to the section of the Fee Schedule entitled ''Connectivity to Third Party Data Feeds'':

• In the first paragraph and in the table of Third Party Data Feeds, delete ''ICE Data Global Index*''.

• Following the table of Third Party Data Feeds, delete the following text:

* ICE will cease to offer the GIF as a stand-alone product, which the Exchange has been informed by ICE is currently expected to occur before the end of 2020. The Exchange will announce the operative date through a customer notice. Any change fees that a User would otherwise incur as a result of the proposed change will be waived.

[8] *See* NYSE National Co-Location Notice, *supra* note 4, at 26322.

[9] Information flows over existing network connections in two formats: ''unicast'' format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and ''multicast'' format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

[10] *See* NYSE National Co-Location Notice, *supra* note 4, at 26322.

[11] *See* Securities Exchange Act Release No. 88981 (June 1, 2020), 85 FR 34690 (June 5, 2020) (SR–NYSENAT–2020–19).

Proposal To Remove the Temporary Waiver of Hot Hands Fees

The Exchange proposes to remove the obsolete reference to the waiver of Hot Hands fees in light of the reopening of the Mahwah, New Jersey data center.

In March 2020, ICE announced to each User that, starting on March 16, 2020, the Mahwah, New Jersey data center would be closed to third parties in response to COVID–19. The Exchange temporarily waived all Hot Hands fees from the date of the closing through the date of the reopening of the data center, and added a note to the fees for the Hot Hands service stating as much.[12]

The Mahwah, New Jersey data center reopened on October 1, 2020. The date of the reopening was announced through a customer notice. As a result of the reopening, the waiver of Hot Hands fees ceased, and the note became obsolete. The Exchange now proposes to remove the obsolete text.

In order to implement this proposed change, the Exchange proposes to make the following changes to the Fee Schedule:

• In the Types of Service table, remove the ''†'' symbol after ''Hot Hands Service***''.

• Following the Types of Service table, remove the following text:

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through the reopening of the Mahwah, New Jersey data center. The date of the reopening will be announced through a customer notice.

Application and Impact of the Proposed Changes

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

As with the existing connections to Third Party Systems, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Systems. Specifically, when a User requests access to a Proposed Third Party System, it would identify the applicable content service provider and what bandwidth connection is required. The Exchange proposes to modify its Fee Schedule to add the Proposed Third Party Systems to its existing list of Third Party Systems. The Exchange does not propose to change the monthly recurring fee the Exchange charges Users for unicast connectivity to each Third Party System, including the Proposed Third Party Systems.

As it does with the existing Third Party Data Feeds, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Data Feeds. Depending on its needs and bandwidth, a User may opt to receive all or some of the feeds or services included in the Proposed Third Party Data Feeds. The Exchange proposes to add the following fees for connectivity to the Proposed Third Party Data Feeds to its existing list in the Fee Schedule: (i) $200 per month for ICE Data Services—ICE TMC; (ii) $3,000 per month for Members Exchange; (iii) $3,500 per month for MIAX Emerald, and (iv) $2,500 per month for MIAX PEARL Equities.

Under this proposal, obsolete references to connectivity to the GIF data feed and the temporary waiver of Hot Hands fees would be removed for all Users.

Competitive Environment

The Exchange operates in a highly competitive market in which exchanges and other vendors (*e.g.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

The proposed changes are not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, for the following reasons.

The Exchange believes that the proposed change to Access and Connectivity is reasonable and would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because by offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. In addition, the Exchange believes that the proposed change is reasonable because by offering Access and Connectivity to Users when available, the Exchange would give Users additional options for connectivity and access to new services as soon as they are available, responding

[12] The Exchange first waived the Hot Hands Fee in a March 17, 2020 filing, and subsequently extended the waiver four times. *See* Securities Exchange Act Release Nos. 88399 (March 17, 2020), 85 FR 16428 (March 23, 2020) (SR–NYSENAT–2020–10); 88521 (March 31, 2020), 85 FR 19194 (April 6, 2020) (SR–NYSENAT–2020–14); 88958 (May 27, 2020), 85 FR 33764 (June 2, 2020) (SR–NYSENAT–2020–18); 89175 (June 29, 2020), 85 FR 40354 (July 6, 2020) (SR–NYSENAT–2020–20); and 89653 (August 25, 2020), 85 FR 53874 (SR–NYSENAT–2020–26).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

to User demand for access and connectivity options.

The Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. For these reasons, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. Although the Exchange does not have complete visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds (as such third parties are not required to make that information public), the Exchange understands that at least one other vendor is currently offering the Proposed MIAX Third Party Data Feeds. As such, the Exchange is not aware of any impediment to such third parties offering substitutes to such Access and Connectivity. If the Exchange were to propose to charge supra-competitive fees for access to any of the Proposed Third Party Systems or connectivity to any of the Proposed Third Party Data Feeds, the Exchange's competitors would respond by offering such access and connectivity at lower rates, and market participants would respond by substituting the Exchange's offerings with more competitively-priced access and connectivity options available from other providers. As such, competition and the availability of substitutes is a check on the Exchange's ability to charge unreasonable fees for Access and Connectivity.

The Exchange further believes that the proposed change to Access and Connectivity is reasonable because in order to offer the Access and Connectivity as conveniences to Users, the Exchange must provide, maintain, and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support, and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users, including resilient and redundant feeds.

In addition, in order to provide Access and Connectivity, the Exchange would establish and maintain multiple connections to each Proposed Third Party System and Proposed Third Party Data Feed, allowing the Exchange to provide resilient and redundant connections; adapt to any changes made by the relevant third party; and cover any applicable fees charged by the relevant third party, such as port fees. For example, the Exchange already offers several Third Party Data Feeds supplied by ICE Data Services, such that the Exchange could add the Proposed ICE TMC Third Party Data Feed over this established connection with less effort. In contrast, in order to offer connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Data Feed, the Exchange must establish and maintain connections to those exchanges, which requires significantly more effort. As such, it is reasonable for the Exchange to offer connectivity to the Proposed ICE TMC Third Party Data Feed at a lower fee than it proposes to charge for connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Third Party Data Feed. Further, the different fees that the Exchange proposes for the Proposed MIAX Emerald Third Party Data Feed and the Proposed MIAX PEARL Equities Third Party Data Feed are reflective of the fact that MIAX charges separate fees to the Exchange to become a distributor of each of its data feed products, and that these distribution fees that the Exchange must pay to MIAX are higher for the Proposed MIAX Emerald Third Party Data Feed than for the Proposed MIAX PEARL Equities Third Party Data Feed.

As such, the Exchange believes the proposed fees for Access and Connectivity are reasonable because they would allow the Exchange to defray or cover the costs associated with offering Users Access and Connectivity while providing Users the convenience of receiving such Access and Connectivity within co-location, helping them to tailor their data center operations to the requirements of their business operations.

The Exchange believes that removing obsolete text from the Fee Schedule would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedule are obsolete. Similarly, because the Mahwah, New Jersey data center has reopened, the note to the Hot Hands service has become obsolete. In both cases, removing the obsolete text would enhance the clarity and transparency of the Fee Schedule and reduce potential customer confusion.

The Proposed Rule Change Is Equitable

The Exchange believes that the proposed rule change provides for the

equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities, for the following reasons.

First, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, irrespective of that User's size or the type of market participant it is.

Second, under the proposed rule change, only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for Access and Connectivity. Users who opt not to use the Access or Connectivity would not be charged. In this way, the proposed rule change equitably allocates the proposed fees only to Users who choose to use the Proposed Third Party Systems and Proposed Third Party Data Feeds.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Fee Schedule would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedule are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers, for the following reasons.

First, the proposed Access and Connectivity are available on equal terms to all Users. Users that opt to use the proposed Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the content provider may receive access or connectivity.

Second, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, and would not unfairly discriminate against any User based on the User's size or the type of market participant it is.

Third, the proposed rule change does not permit unfair discrimination between market participants because only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for access and connectivity. Users who opt not to use the Access or Connectivity will not be charged.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedule are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

* * * * *

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not

[17] 15 U.S.C. 78f(b)(8).

necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed changes would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The proposed change to Access and Connectivity would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. The Exchange believes that providing Users with these additional options for access and connectivity to new services would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and would in fact enhance intramarket competition, by giving Users additional access and connectivity options through which they may differentiate their business operations from each other.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

In this way, the proposed changes would enhance intramarket competition by helping Users tailor their Access and Connectivity to the needs of their business operations by allowing them to select the form and latency of access and connectivity that best suits their needs.

The Exchange further believes that removing the GIF and its associated fee from the list of Third Party Data Feeds available for connectivity in the Fee Schedule and removing the note regarding the temporary waiver of the Hot Hands fee would not permit unfair discrimination between customers, issuers, brokers, or dealers would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue, but rather to remove obsolete text, thereby clarifying Exchange rules and alleviating any possible market participant confusion. The removal of the obsolete text would not put any market participants at a relative disadvantage compared to other market participants, or penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition

The Exchange believes that the proposed changes will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 15 U.S.C. 78s(b)(2)(B).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2021–05 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–NYSENAT–2021–05. 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–NYSENAT–2021–05 and should be submitted on or before April 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06346 Filed 3–26–21; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91386; File No. SR–NYSE–2021–15]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List Related to Co-Location

March 23, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 10, 2021, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text.

Proposal To Add Additional Third Party Systems and Third Party Data Feeds

The Exchange proposes to amend the co-location [4] services offered by the Exchange to provide Users [5] with access to the systems, and connectivity to the data feeds, of various additional third parties. The Exchange proposes to make the corresponding amendments to the Exchange's Price List related to these co-location services to reflect these proposed changes.

As set forth in the Price List, the Exchange charges fees connectivity to the execution systems of third party markets and other content service providers (''Third Party Systems''), and data feeds from third party markets and other content service providers (''Third Party Data Feeds'').[6] The lists of Third Party Systems and Third Party Data Feeds are set forth in the Price List.

The Exchange proposes to provide access to the following additional Third Party Systems: Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade (the ''Proposed Third Party Systems''). The Exchange also proposes to amend the Price List to change the name of the

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56). The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05.

[6] *See* Securities Exchange Act Release No. 80311 (March 24, 2017), 82 FR 15741 (March 30, 2017) (SR–NYSE–2016–45).

''Miami International Securities Exchange'' Third Party System to ''MIAX Options,'' to change the name of the ''MIAX PEARL'' Third Party System to ''MIAX PEARL Options,'' and to combine MIAX Options, MIAX PEARL Options, MIAX PEARL Equities, and MIAX Emerald as a single Third Party System on its Price List. The list of available Third Party Systems in the Price List would be amended as follows:

Third party systems
* * * * *
ITG TriAct Matchnow
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
[Miami International Securities Exchange]
MIAX Options, MIAX PEARL *Options, MIAX PEARL Equities, and MIAX Emerald*

Third party systems
Morgan Stanley
Nasdaq
* * * * *
OTC Markets Group
TD Ameritrade
TMX Group

In addition, the Exchange proposes to provide connectivity to data feeds from Members Exchange (the ''Proposed MEMX Third Party Data Feed''), MIAX Emerald (the ''Proposed MIAX Emerald Third Party Data Feed''), MIAX PEARL Equities (the ''Proposed MIAX PEARL Equities Third Party Data Feed''), and ICE Data Services—ICE TMC[7] (the ''Proposed ICE TMC Third Party Data Feed'') (collectively, the ''Proposed Third Party Data Feeds''). The Exchange also proposes to change the name of the current ''Miami International Securities Exchange/MIAX PEARL'' Third Party Data Feed to ''MIAX Options/MIAX PEARL Options'' on its Price List. Further, the Exchange proposes to delete the ''NASDAQ OMDF'' data feed from the list, as it is no longer offered by the content service provider. Finally, the Exchange proposes to change the name of the current ''SR Labs—SuperFeed'' data feeds to ''Vela—SuperFeed,'' to reflect the content provider's recent change to the name of these products.

The list of available Third Party Data Feeds in the Price List would be amended as follows:

Third party data feed	Monthly recurring connectivity fee per third party data feed
* * * * * * *	
Global OTC	$100
[ICE Data Global Index*]	[100]
ICE Data Services Consolidated Feed ≤100 Mb	200
* * * * * * *	
ICE Data Services Consolidated Feed Shared Farm >1 Gb	1,000
ICE Data Services—ICE TMC	*200*
ICE Data Services PRD	200
* * * * * * *	
ITG TriAct Matchnow	1,000
Members Exchange (MEMX)	*3,000*
MIAX Emerald	*3,500*
[Miami International Securities Exchange]*MIAX Options*/MIAX PEARL *Options*	2,000
MIAX PEARL Equities	*2,500*
Montréal Exchange (MX)	1,000
* * * * * * *	
NASDAQ OMX Global Index Data Service	100
[NASDAQ OMDF]	[100]
NASDAQ UQDF & UTDF	500
* * * * * * *	
OTC Markets Group	1,000
Vela[SR Labs]—SuperFeed <500 Mb	250
Vela[SR Labs]—SuperFeed >500 Mb to <1.25 Gb	800
Vela[SR Labs]—SuperFeed >1.25 Gb	1,000
TMX Group	2,500
* * * * * * *	

The Exchange would provide access to the Proposed Third Party Systems (''Access'') and connectivity to the Proposed Third Party Data Feeds (''Connectivity'') as conveniences to Users. Use of Access or Connectivity would be completely voluntary.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as such third parties are not required to make that information public. However, the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange

[7] The Proposed ICE TMC Third Party Data Feed is generated by ICE Bonds, an indirect subsidiary of ICE, and includes market data for the ICE TMC alternative trading system. It does not include market data of the Exchange or Affiliate SROs.

competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. The Exchange is not aware of any impediment to such third parties offering access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds.

If one or more third parties presently offer, or in the future opt to offer, such Access and Connectivity to Users, a User may utilize the ICE Data Services (''IDS'') network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

Access to the Proposed Third Party Systems

The Exchange proposes to revise the Price List to provide that Users may obtain connectivity to the Proposed Third Party Systems for a fee. As with the current Third Party Systems, Users would connect to the Proposed Third Party Systems over the internet protocol (''IP'') network, a local area network available in the data center.[8]

As with the current Third Party Systems, in order to obtain access to a Proposed Third Party System, the User would enter into an agreement with the relevant Proposed Third Party, pursuant to which the third party content service provider would charge the User for access to the Proposed Third Party System. The Exchange would then establish a unicast connection between the User and the Proposed Third Party System over the IP network.[9] The Exchange would charge the User for the connectivity to the Proposed Third Party System. A User would only receive, and would only be charged for, access to the Proposed Third Party System for which it enters into agreements with the third party content service provider.

The Exchange has no affiliation with the providers of any of the Proposed Third Party Systems. Establishing a User's access to a Proposed Third Party System would not give the Exchange any right to use the Proposed Third Party System. Connectivity to a Proposed Third Party System would not provide access or order entry to the Exchange's execution system, and a User's connection to a Proposed Third Party System would not be through the Exchange's execution system.

Connectivity to the Proposed Third Party Data Feeds

The Exchange proposes to revise the Price List to provide that Users may obtain connectivity to the Proposed Third Party Data Feeds for a fee. As with the existing connections to Third Party Data Feeds, the Exchange would receive a Proposed Third Party Data Feed from the content service provider at the data center. The Exchange would then provide connectivity to that data to Users for a fee. Users would connect to the Proposed Third Party Data Feeds over the IP network.[10] The Proposed Third Party Data Feeds would include trading information concerning the securities that are traded on the relevant Proposed Third Party Systems.

As with the existing connections to Third Party Data Feeds, in order to connect to a Proposed Third Party Data Feed, a User would enter into a contract with the content service provider, pursuant to which the content service provider may charge the User for the data feed. The Exchange would receive the Proposed Third Party Data Feed over its fiber optic network and, after the content service provider and User entered into an agreement and the Exchange received authorization from the content service provider, the Exchange would retransmit the data to the User over the User's port. The Exchange would charge the User for connectivity to the Proposed Third Party Data Feed. A User would only receive, and would only be charged the fee for, connectivity to a Proposed Third Party Data Feed for which it entered into a contract.

The Exchange has no affiliation with the sellers of the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, or the Proposed MIAX PEARL Equities Third Party Data Feed, and would have no right to use those feeds other than as a redistributor of the data. Similarly, although the Exchange and ICE Bonds—the generator of the Proposed ICE TMC Third Party Data Feed—are both indirect subsidiaries of ICE, the Exchange would have no right to use the Proposed ICE TMC Third Party Data Feed other than as a redistributor of the data. None of the Proposed Third Party Data Feeds would provide access or order entry to the Exchange's execution system. The Proposed Third Party Data Feeds would not provide access or order entry to the execution systems of the third parties generating the feeds. The Exchange would receive the Proposed Third Party Data Feeds via arms-length agreements and would have no inherent advantage over any other distributor of such data.

Proposal To Remove Obsolete Text

Proposal To Remove References to ICE Data Global Index

The Exchange proposes to remove obsolete references to the ICE Data Global Index (the ''GIF'') from the list of Third Party Data Feeds available for connectivity and related text.

In May 2020, ICE, which publishes the GIF, announced to its customers that before the end of 2020, it would cease offering the GIF as a stand-alone product. The Exchange accordingly amended its Price List to inform customers that it would cease offering connectivity to the GIF once it is no longer available.[11]

ICE has now informed the Exchange that it ceased offering the GIF as a stand-alone product, making the references to the GIF obsolete. The operative date was announced through a customer notice. Accordingly, the Exchange proposes to remove ''ICE Data Global Index*'' and the corresponding asterisked note from the Price List.

In order to implement the proposed change, the Exchange proposes to make the following changes to the section of the Price List entitled ''Connectivity to Third Party Data Feeds'':

- In the first paragraph and in the table of Third Party Data Feeds, delete ''ICE Data Global Index*''.
- Following the table of Third Party Data Feeds, delete the following text:

** ICE will cease to offer the GIF as a stand-alone product, which the Exchange has been informed by ICE is currently expected to occur before the end of 2020. The Exchange will announce the operative date through a customer notice. Any change fees that a User would otherwise incur as a result of the proposed change will be waived.*

[8] *See* Securities Exchange Act Release No. 74222 (February 6, 2015), 80 FR 7888 (February 12, 2015) (SR–NYSE–2015–05) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[9] Information flows over existing network connections in two formats: ''unicast'' format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and ''multicast'' format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

[10] *See supra* note 8 at 7888 (''The IP network also provides Users with access to away market data products'').

[11] *See* Securities Exchange Act Release No. 88985 (June 1, 2020), 85 FR 34666 (June 5, 2020) (SR–NYSE–2020–46).

Proposal To Remove the Temporary Waiver of Hot Hands Fees

The Exchange proposes to remove the obsolete reference to the waiver of Hot Hands fees in light of the reopening of the Mahwah, New Jersey data center.

In March 2020, ICE announced to each User that, starting on March 16, 2020, the Mahwah, New Jersey data center would be closed to third parties in response to COVID–19. The Exchange temporarily waived all Hot Hands fees from the date of the closing through the date of the reopening of the data center, and added a note to the fees for the Hot Hands service stating as much.[12]

The Mahwah, New Jersey data center reopened on October 1, 2020. The date of the reopening was announced through a customer notice. As a result of the reopening, the waiver of Hot Hands fees ceased, and the note became obsolete. The Exchange now proposes to remove the obsolete text.

In order to implement this proposed change, the Exchange proposes to make the following changes to the Price List:

• In the Types of Service table, remove the ''†'' symbol after ''Hot Hands Service***''.

• Following the Types of Service table, remove the following text:

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through the reopening of the Mahwah, New Jersey data center. The date of the reopening will be announced through a customer notice.

Application and Impact of the Proposed Changes

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Price List is applied uniformly to all Users.

As with the existing connections to Third Party Systems, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Systems. Specifically, when a User requests access to a Proposed Third Party System, it would identify the applicable content service provider and what bandwidth connection is required. The Exchange proposes to modify its Price List to add the Proposed Third Party Systems to its existing list of Third Party Systems. The Exchange does not propose to change the monthly recurring fee the Exchange charges Users for unicast connectivity to each Third Party System, including the Proposed Third Party Systems.

As it does with the existing Third Party Data Feeds, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Data Feeds. Depending on its needs and bandwidth, a User may opt to receive all or some of the feeds or services included in the Proposed Third Party Data Feeds. The Exchange proposes to add the following fees for connectivity to the Proposed Third Party Data Feeds to its existing list in the Price List: (i) $200 per month for ICE Data Services—ICE TMC; (ii) $3,000 per month for Members Exchange; (iii) $3,500 per month for MIAX Emerald, and (iv) $2,500 per month for MIAX PEARL Equities.

Under this proposal, obsolete references to connectivity to the GIF data feed and the temporary waiver of Hot Hands fees would be removed for all Users.

Competitive Environment

The Exchange operates in a highly competitive market in which exchanges and other vendors (*e.g.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

The proposed changes are not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, for the following reasons.

The Exchange believes that the proposed change to Access and Connectivity is reasonable and would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because by offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. In addition, the Exchange believes that the proposed change is reasonable because by offering Access and Connectivity to Users when available, the Exchange would give Users additional options for connectivity and access to new services as soon as they are available, responding

[12] The Exchange first waived the Hot Hands Fee in a March 17, 2020 filing, and subsequently extended the waiver four times. *See* Securities Exchange Act Release Nos. 88397 (March 17, 2020), 85 FR 16406 (March 23, 2020) (SR–NYSE–2020–18); 88518 (March 31, 2020), 85 FR 19187 (April 6, 2020) (SR–NYSE–2020–25); 88955 (May 27, 2020), 85 FR 33758 (June 2, 2020) (SR–NYSE–2020–44); 89172 (June 29, 2020), 85 FR 40347 (July 6, 2020) (SR–NYSE–2020–53); and 89655 (August 25, 2020), 85 FR 53872 (August 31, 2020) (SR–NYSE–2020–69).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

to User demand for access and connectivity options.

The Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. For these reasons, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. Although the Exchange does not have complete visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds (as such third parties are not required to make that information public), the Exchange understands that at least one other vendor is currently offering the Proposed MIAX Third Party Data Feeds. As such, the Exchange is not aware of any impediment to such third parties offering substitutes to such Access and Connectivity. If the Exchange were to propose to charge supra-competitive fees for access to any of the Proposed Third Party Systems or connectivity to any of the Proposed Third Party Data Feeds, the Exchange's competitors would respond by offering such access and connectivity at lower rates, and market participants would respond by substituting the Exchange's offerings with more competitively-priced access and connectivity options available from other providers. As such, competition and the availability of substitutes is a check on the Exchange's ability to charge unreasonable fees for Access and Connectivity.

The Exchange further believes that the proposed change to Access and Connectivity is reasonable because in order to offer the Access and Connectivity as conveniences to Users, the Exchange must provide, maintain, and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support, and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users, including resilient and redundant feeds.

In addition, in order to provide Access and Connectivity, the Exchange would establish and maintain multiple connections to each Proposed Third Party System and Proposed Third Party Data Feed, allowing the Exchange to provide resilient and redundant connections; adapt to any changes made by the relevant third party; and cover any applicable fees charged by the relevant third party, such as port fees. For example, the Exchange already offers several Third Party Data Feeds supplied by ICE Data Services, such that the Exchange could add the Proposed ICE TMC Third Party Data Feed over this established connection with less effort. In contrast, in order to offer connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Data Feed, the Exchange must establish and maintain connections to those exchanges, which requires significantly more effort. As such, it is reasonable for the Exchange to offer connectivity to the Proposed ICE TMC Third Party Data Feed at a lower fee than it proposes to charge for connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Third Party Data Feed. Further, the different fees that the Exchange proposes for the Proposed MIAX Emerald Third Party Data Feed and the Proposed MIAX PEARL Equities Third Party Data Feed are reflective of the fact that MIAX charges separate fees to the Exchange to become a distributor of each of its data feed products, and that these distribution fees that the Exchange must pay to MIAX are higher for the Proposed MIAX Emerald Third Party Data Feed than for the Proposed MIAX PEARL Equities Third Party Data Feed.

As such, the Exchange believes the proposed fees for Access and Connectivity are reasonable because they would allow the Exchange to defray or cover the costs associated with offering Users Access and Connectivity while providing Users the convenience of receiving such Access and Connectivity within co-location, helping them to tailor their data center operations to the requirements of their business operations.

The Exchange believes that removing obsolete text from the Price List would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Price List are obsolete. Similarly, because the Mahwah, New Jersey data center has reopened, the note to the Hot Hands service has become obsolete. In both cases, removing the obsolete text would enhance the clarity and transparency of the Price List and reduce potential customer confusion.

The Proposed Rule Change Is Equitable

The Exchange believes that the proposed rule change provides for the

equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities, for the following reasons.

First, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, irrespective of that User's size or the type of market participant it is.

Second, under the proposed rule change, only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for Access and Connectivity. Users who opt not to use the Access or Connectivity would not be charged. In this way, the proposed rule change equitably allocates the proposed fees only to Users who choose to use the Proposed Third Party Systems and Proposed Third Party Data Feeds.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Price List would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Price List are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers, for the following reasons.

First, the proposed Access and Connectivity are available on equal terms to all Users. Users that opt to use the proposed Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the content provider may receive access or connectivity.

Second, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, and would not unfairly discriminate against any User based on the User's size or the type of market participant it is.

Third, the proposed rule change does not permit unfair discrimination between market participants because only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for access and connectivity. Users who opt not to use the Access or Connectivity will not be charged.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Price List would not permit unfair discrimination between customers, issuers, brokers, or dealers. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Price List are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

* * * * *

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not

[17] 15 U.S.C. 78f(b)(8).

necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed changes would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The proposed change to Access and Connectivity would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. The Exchange believes that providing Users with these additional options for access and connectivity to new services would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and would in fact enhance intramarket competition, by giving Users additional access and connectivity options through which they may differentiate their business operations from each other.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

In this way, the proposed changes would enhance intramarket competition by helping Users tailor their Access and Connectivity to the needs of their business operations by allowing them to select the form and latency of access and connectivity that best suits their needs.

The Exchange further believes that removing the GIF and its associated fee from the list of Third Party Data Feeds available for connectivity in the Price List and removing the note regarding the temporary waiver of the Hot Hands fee would not permit unfair discrimination between customers, issuers, brokers, or dealers would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue, but rather to remove obsolete text, thereby clarifying Exchange rules and alleviating any possible market participant confusion. The removal of the obsolete text would not put any market participants at a relative disadvantage compared to other market participants, or penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition

The Exchange believes that the proposed changes will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 15 U.S.C. 78s(b)(2)(B).

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–15 on the subject line.

Paper Comments

• Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2021–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–15 and should be submitted on or before April 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06344 Filed 3–26–21; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91387; File No. SR–NYSEAMER–2021–13]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE American Equities Price List and Fee Schedule and the NYSE American Options Fee Schedule Related to Co-Location

March 23, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 10, 2021, NYSE American LLC (''NYSE American'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Equities Price List and Fee Schedule and the NYSE American Options Fee Schedule (together, the ''Price List and Fee Schedule'') related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List and Fee Schedule related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text.

Proposal To Add Additional Third Party Systems and Third Party Data Feeds

The Exchange proposes to amend the co-location [4] services offered by the Exchange to provide Users [5] with access to the systems, and connectivity to the data feeds, of various additional third parties. The Exchange proposes to make the corresponding amendments to the Exchange's Price List and Fee Schedule related to these co-location services to reflect these proposed changes.

As set forth in the Price List and Fee Schedule, the Exchange charges fees for connectivity to the execution systems of third party markets and other content service providers (''Third Party Systems''), and data feeds from third party markets and other content service providers (''Third Party Data Feeds'').[6] The lists of Third Party Systems and Third Party Data Feeds are set forth in the Price List and Fee Schedule.

The Exchange proposes to provide access to the following additional Third Party Systems: Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities,

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80). The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Price List and Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–15, SR–NYSEArca-2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05.

[6] *See* Securities Exchange Act Release No. 80309 (March 24, 2017), 82 FR 15725 (March 30, 2017) (SR–NYSEMKT–2016–63).

Morgan Stanley, and TD Ameritrade (the ''Proposed Third Party Systems''). The Exchange also proposes to amend the Price List and Fee Schedule to change the name of the ''Miami International Securities Exchange'' Third Party System to ''MIAX Options,'' to change the name of the ''MIAX PEARL'' Third Party System to ''MIAX PEARL Options,'' and to combine MIAX Options, MIAX PEARL Options, MIAX PEARL Equities, and MIAX Emerald as a single Third Party System on its Price List. The list of available Third Party Systems in the Price List would be amended as follows:

Third party systems
* * * * *
ITG TriAct Matchnow
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
[Miami International Securities Exchange]
MIAX Options, MIAX PEARL *Options, MIAX PEARL Equities, and MIAX Emerald*
Morgan Stanley
Nasdaq
* * * * *
OTC Markets Group
TD Ameritrade
TMX Group

In addition, the Exchange proposes to provide connectivity to data feeds from Members Exchange (the ''Proposed MEMX Third Party Data Feed''), MIAX Emerald (the ''Proposed MIAX Emerald Third Party Data Feed''), MIAX PEARL Equities (the ''Proposed MIAX PEARL Equities Third Party Data Feed''), and ICE Data Services—ICE TMC[7] (the ''Proposed ICE TMC Third Party Data Feed'') (collectively, the ''Proposed Third Party Data Feeds''). The Exchange also proposes to change the name of the current ''Miami International Securities Exchange/MIAX PEARL'' Third Party Data Feed to ''MIAX Options/MIAX PEARL Options'' on its Price List and Fee Schedule. Further, the Exchange proposes to delete the ''NASDAQ OMDF'' data feed from the list, as it is no longer offered by the content service provider. Finally, the Exchange proposes to change the name of the current ''SR Labs—SuperFeed'' data feeds to ''Vela—SuperFeed,'' to reflect the content provider's recent change to the name of these products.

The list of available Third Party Data Feeds in the Price List and Fee Schedule would be amended as follows:

Third party data feed	Monthly recurring connectivity fee per third party data feed
* * * * * * *	
Global OTC	$100
[ICE Data Global Index*]	[100]
ICE Data Services Consolidated Feed ≤100 Mb	200
* * * * * * *	
ICE Data Services Consolidated Feed Shared Farm >1 Gb	1,000
ICE Data Services—ICE TMC	*200*
ICE Data Services PRD	200
* * * * * * *	
ITG TriAct Matchnow	1,000
Members Exchange (MEMX)	*3,000*
MIAX Emerald	*3,500*
[Miami International Securities Exchange]*MIAX Options*/MIAX PEARL *Options*	2,000
MIAX PEARL Equities	*2,500*
Montréal Exchange (MX)	1,000
* * * * * * *	
NASDAQ OMX Global Index Data Service	100
[NASDAQ OMDF]	[100]
NASDAQ UQDF & UTDF	500
* * * * * * *	
OTC Markets Group	1,000
Vela[SR Labs]—SuperFeed <500 Mb	250
Vela[SR Labs]—SuperFeed >500 Mb to <1.25 Gb	800
Vela[SR Labs]—SuperFeed >1.25 Gb	1,000
TMX Group	2,500
* * * * * * *	

The Exchange would provide access to the Proposed Third Party Systems (''Access'') and connectivity to the Proposed Third Party Data Feeds (''Connectivity'') as conveniences to Users. Use of Access or Connectivity would be completely voluntary.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as such third parties are not required to make that information public. However, the

[7] The Proposed ICE TMC Third Party Data Feed is generated by ICE Bonds, an indirect subsidiary of ICE, and includes market data for the ICE TMC alternative trading system. It does not include market data of the Exchange or Affiliate SROs.

market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. The Exchange is not aware of any impediment to such third parties offering access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds.

If one or more third parties presently offer, or in the future opt to offer, such Access and Connectivity to Users, a User may utilize the ICE Data Services (''IDS'') network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

Access to the Proposed Third Party Systems

The Exchange proposes to revise the Price List and Fee Schedule to provide that Users may obtain connectivity to the Proposed Third Party Systems for a fee. As with the current Third Party Systems, Users would connect to the Proposed Third Party Systems over the internet protocol (''IP'') network, a local area network available in the data center.[8]

As with the current Third Party Systems, in order to obtain access to a Proposed Third Party System, the User would enter into an agreement with the relevant Proposed Third Party, pursuant to which the third party content service provider would charge the User for access to the Proposed Third Party System. The Exchange would then establish a unicast connection between the User and the Proposed Third Party System over the IP network.[9] The Exchange would charge the User for the connectivity to the Proposed Third Party System. A User would only receive, and would only be charged for, access to the Proposed Third Party System for which it enters into agreements with the third party content service provider.

The Exchange has no affiliation with the providers of any of the Proposed Third Party Systems. Establishing a User's access to a Proposed Third Party System would not give the Exchange any right to use the Proposed Third Party System. Connectivity to a Proposed Third Party System would not provide access or order entry to the Exchange's execution system, and a User's connection to a Proposed Third Party System would not be through the Exchange's execution system.

Connectivity to the Proposed Third Party Data Feeds

The Exchange proposes to revise the Price List and Fee Schedule to provide that Users may obtain connectivity to the Proposed Third Party Data Feeds for a fee. As with the existing connections to Third Party Data Feeds, the Exchange would receive a Proposed Third Party Data Feed from the content service provider at the data center. The Exchange would then provide connectivity to that data to Users for a fee. Users would connect to the Proposed Third Party Data Feeds over the IP network.[10] The Proposed Third Party Data Feeds would include trading information concerning the securities that are traded on the relevant Proposed Third Party Systems.

As with the existing connections to Third Party Data Feeds, in order to connect to a Proposed Third Party Data Feed, a User would enter into a contract with the content service provider, pursuant to which the content service provider may charge the User for the data feed. The Exchange would receive the Proposed Third Party Data Feed over its fiber optic network and, after the content service provider and User entered into an agreement and the Exchange received authorization from the content service provider, the Exchange would retransmit the data to the User over the User's port. The Exchange would charge the User for connectivity to the Proposed Third Party Data Feed. A User would only receive, and would only be charged the fee for, connectivity to a Proposed Third Party Data Feed for which it entered into a contract.

The Exchange has no affiliation with the sellers of the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, or the Proposed MIAX PEARL Equities Third Party Data Feed, and would have no right to use those feeds other than as a redistributor of the data. Similarly, although the Exchange and ICE Bonds—the generator of the Proposed ICE TMC Third Party Data Feed—are both indirect subsidiaries of ICE, the Exchange would have no right to use the Proposed ICE TMC Third Party Data Feed other than as a redistributor of the data. None of the Proposed Third Party Data Feeds would provide access or order entry to the Exchange's execution system. The Proposed Third Party Data Feeds would not provide access or order entry to the execution systems of the third parties generating the feeds. The Exchange would receive the Proposed Third Party Data Feeds via arms-length agreements and would have no inherent advantage over any other distributor of such data.

Proposal To Remove Obsolete Text

Proposal To Remove References to ICE Data Global Index

The Exchange proposes to remove obsolete references to the ICE Data Global Index (the ''GIF'') from the list of Third Party Data Feeds available for connectivity and related text.

In May 2020, ICE, which publishes the GIF, announced to its customers that before the end of 2020, it would cease offering the GIF as a stand-alone product. The Exchange accordingly amended its Price List and Fee Schedule to inform customers that it would cease offering connectivity to the GIF once it is no longer available.[11]

ICE has now informed the Exchange that it ceased offering the GIF as a stand-alone product, making the references to the GIF obsolete. The operative date was announced through a customer notice. Accordingly, the Exchange proposes to remove ''ICE Data Global Index*'' and the corresponding asterisked note from the Price List and Fee Schedule.

In order to implement the proposed change, the Exchange proposes to make the following changes to the section of the Price List and Fee Schedule entitled ''Connectivity to Third Party Data Feeds'':

- In the first paragraph and in the table of Third Party Data Feeds, delete ''ICE Data Global Index*''.
- Following the table of Third Party Data Feeds, delete the following text:

* *ICE will cease to offer the GIF as a stand-alone product, which the Exchange has been informed by ICE is currently expected to occur before the end of 2020. The Exchange will announce the operative date through a*

[8] *See* Securities Exchange Act Release No. 74220 (February 6, 2015), 80 FR 7894 (February 12, 2015) (SR–NYSEMKT–2015–08) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[9] Information flows over existing network connections in two formats: ''unicast'' format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and ''multicast'' format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

[10] *See supra* note 8 at 7894 (''The IP network also provides Users with access to away market data products'').

[11] *See* Securities Exchange Act Release No. 88979 (June 1, 2020), 85 FR 34663 (June 5, 2020) (SR–NYSEAMER–2020–40).

customer notice. Any change fees that a User would otherwise incur as a result of the proposed change will be waived.

Proposal To Remove the Temporary Waiver of Hot Hands Fees

The Exchange proposes to remove the obsolete reference to the waiver of Hot Hands fees in light of the reopening of the Mahwah, New Jersey data center.

In March 2020, ICE announced to each User that, starting on March 16, 2020, the Mahwah, New Jersey data center would be closed to third parties in response to COVID–19. The Exchange temporarily waived all Hot Hands fees from the date of the closing through the date of the reopening of the data center, and added a note to the fees for the Hot Hands service stating as much.[12]

The Mahwah, New Jersey data center reopened on October 1, 2020. The date of the reopening was announced through a customer notice. As a result of the reopening, the waiver of Hot Hands fees ceased, and the note became obsolete. The Exchange now proposes to remove the obsolete text.

In order to implement this proposed change, the Exchange proposes to make the following changes to the Price List and Fee Schedule:

• In the Types of Service table, remove the ''†'' symbol after ''Hot Hands Service ***''.

• Following the Types of Service table, remove the following text:

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through the reopening of the Mahwah, New Jersey data center. The date of the reopening will be announced through a customer notice.

Application and Impact of the Proposed Changes

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Price List and Fee Schedule is applied uniformly to all Users.

As with the existing connections to Third Party Systems, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Systems. Specifically, when a User requests access to a Proposed Third Party System, it would identify the applicable content service provider and what bandwidth connection is required. The Exchange proposes to modify its Price List and Fee Schedule to add the Proposed Third Party Systems to its existing list of Third Party Systems. The Exchange does not propose to change the monthly recurring fee the Exchange charges Users for unicast connectivity to each Third Party System, including the Proposed Third Party Systems.

As it does with the existing Third Party Data Feeds, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Data Feeds. Depending on its needs and bandwidth, a User may opt to receive all or some of the feeds or services included in the Proposed Third Party Data Feeds. The Exchange proposes to add the following fees for connectivity to the Proposed Third Party Data Feeds to its existing list in the Price List and Fee Schedule: (i) $200 per month for ICE Data Services—ICE TMC; (ii) $3,000 per month for Members Exchange; (iii) $3,500 per month for MIAX Emerald, and (iv) $2,500 per month for MIAX PEARL Equities.

Under this proposal, obsolete references to connectivity to the GIF data feed and the temporary waiver of Hot Hands fees would be removed for all Users.

Competitive Environment

The Exchange operates in a highly competitive market in which exchanges and other vendors (*e.g.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

The proposed changes are not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, for the following reasons.

The Exchange believes that the proposed change to Access and Connectivity is reasonable and would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because by offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. In addition, the Exchange believes that the proposed change is reasonable because

[12] The Exchange first waived the Hot Hands Fee in a March 17, 2020 filing, and subsequently extended the waiver four times. *See* Securities Exchange Act Release Nos. 88403 (March 17, 2020), 85 FR 16400 (March 23, 2020) (SR–NYSEAMER–2020–19); 88523 (March 31, 2020), 85 FR 19179 (April 6, 2020) (SR–NYSEAMER–2020–23); 88956 (May 27, 2020), 85 FR 33760 (June 2, 2020) (SR–NYSEAMER–2020–39); 89173 (June 29, 2020), 85 FR 40352 (July 6, 2020) (SR–NYSEAMER–2020–46); and 89651 (August 25, 2020), 85 FR 53896 (August 31, 2020) (SR–NYSEAMER–2020–63).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

by offering Access and Connectivity to Users when available, the Exchange would give Users additional options for connectivity and access to new services as soon as they are available, responding to User demand for access and connectivity options.

The Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. For these reasons, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. Although the Exchange does not have complete visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds (as such third parties are not required to make that information public), the Exchange understands that at least one other vendor is currently offering the Proposed MIAX Third Party Data Feeds. As such, the Exchange is not aware of any impediment to such third parties offering substitutes to such Access and Connectivity. If the Exchange were to propose to charge supra-competitive fees for access to any of the Proposed Third Party Systems or connectivity to any of the Proposed Third Party Data Feeds, the Exchange's competitors would respond by offering such access and connectivity at lower rates, and market participants would respond by substituting the Exchange's offerings with more competitively-priced access and connectivity options available from other providers. As such, competition and the availability of substitutes is a check on the Exchange's ability to charge unreasonable fees for Access and Connectivity.

The Exchange further believes that the proposed change to Access and Connectivity is reasonable because in order to offer the Access and Connectivity as conveniences to Users, the Exchange must provide, maintain, and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support, and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users, including resilient and redundant feeds.

In addition, in order to provide Access and Connectivity, the Exchange would establish and maintain multiple connections to each Proposed Third Party System and Proposed Third Party Data Feed, allowing the Exchange to provide resilient and redundant connections; adapt to any changes made by the relevant third party; and cover any applicable fees charged by the relevant third party, such as port fees. For example, the Exchange already offers several Third Party Data Feeds supplied by ICE Data Services, such that the Exchange could add the Proposed ICE TMC Third Party Data Feed over this established connection with less effort. In contrast, in order to offer connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Data Feed, the Exchange must establish and maintain connections to those exchanges, which requires significantly more effort. As such, it is reasonable for the Exchange to offer connectivity to the Proposed ICE TMC Third Party Data Feed at a lower fee than it proposes to charge for connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Third Party Data Feed. Further, the different fees that the Exchange proposes for the Proposed MIAX Emerald Third Party Data Feed and the Proposed MIAX PEARL Equities Third Party Data Feed are reflective of the fact that MIAX charges separate fees to the Exchange to become a distributor of each of its data feed products, and that these distribution fees that the Exchange must pay to MIAX are higher for the Proposed MIAX Emerald Third Party Data Feed than for the Proposed MIAX PEARL Equities Third Party Data Feed.

As such, the Exchange believes the proposed fees for Access and Connectivity are reasonable because they would allow the Exchange to defray or cover the costs associated with offering Users Access and Connectivity while providing Users the convenience of receiving such Access and Connectivity within co-location, helping them to tailor their data center operations to the requirements of their business operations.

The Exchange believes that removing obsolete text from the Price List and Fee Schedule would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Price List and Fee Schedule are obsolete. Similarly, because the Mahwah, New Jersey data center has reopened, the note to the Hot Hands service has become obsolete. In both cases, removing the obsolete text would enhance the clarity and transparency of

the Price List and Fee Schedule and reduce potential customer confusion.

The Proposed Rule Change Is Equitable

The Exchange believes that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities, for the following reasons.

First, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, irrespective of that User's size or the type of market participant it is.

Second, under the proposed rule change, only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for Access and Connectivity. Users who opt not to use the Access or Connectivity would not be charged. In this way, the proposed rule change equitably allocates the proposed fees only to Users who choose to use the Proposed Third Party Systems and Proposed Third Party Data Feeds.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Price List and Fee Schedule would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Price List and Fee Schedule are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers, for the following reasons.

First, the proposed Access and Connectivity are available on equal terms to all Users. Users that opt to use the proposed Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the content provider may receive access or connectivity.

Second, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, and would not unfairly discriminate against any User based on the User's size or the type of market participant it is.

Third, the proposed rule change does not permit unfair discrimination between market participants because only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for access and connectivity. Users who opt not to use the Access or Connectivity will not be charged.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Price List and Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Price List and Fee Schedule are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

* * * * *

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed changes would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The proposed change to Access and Connectivity would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. The Exchange believes that providing Users with these additional options for access and connectivity to new services would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and would in fact enhance intramarket competition, by giving Users additional access and connectivity options through which they may differentiate their business operations from each other.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

In this way, the proposed changes would enhance intramarket competition by helping Users tailor their Access and Connectivity to the needs of their business operations by allowing them to select the form and latency of access and connectivity that best suits their needs.

The Exchange further believes that removing the GIF and its associated fee from the list of Third Party Data Feeds available for connectivity in the Price List and Fee Schedule and removing the note regarding the temporary waiver of the Hot Hands fee would not permit unfair discrimination between customers, issuers, brokers, or dealers would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue, but rather to remove obsolete text, thereby clarifying Exchange rules and alleviating any possible market participant confusion. The removal of the obsolete text would not put any market participants at a relative disadvantage compared to other market participants, or penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition

The Exchange believes that the proposed changes will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 15 U.S.C. 78s(b)(2)(B).

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–NYSEAMER–2021–13 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–NYSEAMER–2021–13. 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–NYSEAMER–2021–13 and should be submitted on or before April 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06349 Filed 3–26–21; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91390; File No. SR–NYSECHX–2021–04]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Fee Schedule Related to Co-Location

March 23, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 10, 2021, the NYSE Chicago, Inc. (''NYSE Chicago'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule (the ''Fee Schedule'') related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text.

Proposal To Add Additional Third Party Systems and Third Party Data Feeds

The Exchange proposes to amend the co-location [4] services offered by the Exchange to provide Users [5] with access to the systems, and connectivity to the data feeds, of various additional third parties. The Exchange proposes to make the corresponding amendments to the Exchange's Fee Schedule related to these co-location services to reflect these proposed changes.

As set forth in the Fee Schedule, the Exchange charges fees for connectivity to the execution systems of third party markets and other content service providers (''Third Party Systems''), and data feeds from third party markets and other content service providers (''Third Party Data Feeds'').[6] The lists of Third Party Systems and Third Party Data Feeds are set forth in the Fee Schedule.

The Exchange proposes to provide access to the following additional Third Party Systems: Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade (the ''Proposed Third Party Systems''). The Exchange also proposes to amend the Fee Schedule to change the name of the ''Miami International Securities

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2019. *See* Securities Exchange Act Release No. 87408 (October 28, 2019), 84 FR 58778 (November 1, 2019) (SR–NYSECHX–2019–12) (''NYSE Chicago Co-location Notice''). The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id., supra* note 4, at 58778 n.6. As specified in the Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC (''NYSE''), NYSE American LLC, NYSE Arca, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See id.* at 58779. Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, and SR–NYSENAT–2021–05.

[6] *See* NYSE Chicago Co-location Notice, *supra* note 4, at 58786–87.

Exchange'' Third Party System to ''MIAX Options,'' to change the name of the ''MIAX PEARL'' Third Party System to ''MIAX PEARL Options,'' and to combine MIAX Options, MIAX PEARL Options, MIAX PEARL Equities, and MIAX Emerald as a single Third Party System on the Fee Schedule. The list of available Third Party Systems in the Fee Schedule would be amended as follows:

Third party systems
* * * * *
ITG TriAct Matchnow
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
[Miami International Securities Exchange]
MIAX Options, MIAX PEARL *Options, MIAX PEARL Equities, and MIAX Emerald*

Third party systems
Morgan Stanley
Nasdaq
* * * * *
OTC Markets Group
TD Ameritrade
TMX Group

In addition, the Exchange proposes to provide connectivity to data feeds from Members Exchange (the ''Proposed MEMX Third Party Data Feed''), MIAX Emerald (the ''Proposed MIAX Emerald Third Party Data Feed''), MIAX PEARL Equities (the ''Proposed MIAX PEARL Equities Third Party Data Feed''), and ICE Data Services—ICE TMC[7] (the ''Proposed ICE TMC Third Party Data Feed'') (collectively, the ''Proposed Third Party Data Feeds''). The Exchange also proposes to change the name of the current ''Miami International Securities Exchange/MIAX PEARL'' Third Party Data Feed to ''MIAX Options/MIAX PEARL Options'' on its Fee Schedule. Further, the Exchange proposes to delete the ''NASDAQ OMDF'' data feed from the list, as it is no longer offered by the content service provider. Finally, the Exchange proposes to change the name of the current ''SR Labs—SuperFeed'' data feeds to ''Vela—SuperFeed,'' to reflect the content provider's recent change to the name of these products.

The list of available Third Party Data Feeds in the Fee Schedule would be amended as follows:

Third party data feed	Monthly recurring connectivity fee per third party data feed
* * * * * * *	
Global OTC	$100
[ICE Data Global Index*]	[100]
ICE Data Services Consolidated Feed ≤100 Mb	200
* * * * * * *	
ICE Data Services Consolidated Feed Shared Farm >1 Gb	1,000
ICE Data Services—ICE TMC	*200*
ICE Data Services PRD	200
* * * * * * *	
ITG TriAct Matchnow	1,000
Members Exchange (MEMX)	*3,000*
MIAX Emerald	*3,500*
[Miami International Securities Exchange]*MIAX Options*/MIAX PEARL *Options*	2,000
MIAX PEARL Equities	*2,500*
Montréal Exchange (MX)	1,000
* * * * * * *	
NASDAQ OMX Global Index Data Service	100
[NASDAQ OMDF]	[100]
NASDAQ UQDF & UTDF	500
* * * * * * *	
OTC Markets Group	1,000
Vela[SR Labs]—SuperFeed <500 Mb	250
Vela[SR Labs]—SuperFeed >500 Mb to <1.25 Gb	800
Vela[SR Labs]—SuperFeed >1.25 Gb	1,000
TMX Group	2,500
* * * * * * *	

The Exchange would provide access to the Proposed Third Party Systems (''Access'') and connectivity to the Proposed Third Party Data Feeds (''Connectivity'') as conveniences to Users. Use of Access or Connectivity would be completely voluntary.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as such third parties are not required to make that information public. However, the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer

[7] The Proposed ICE TMC Third Party Data Feed is generated by ICE Bonds, an indirect subsidiary of ICE, and includes market data for the ICE TMC alternative trading system. It does not include market data of the Exchange or Affiliate SROs.

access to Third Party Systems and connectivity to Third Party Data Feeds. The Exchange is not aware of any impediment to such third parties offering access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds.

If one or more third parties presently offer, or in the future opt to offer, such Access and Connectivity to Users, a User may utilize the ICE Data Services (''IDS'') network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

Access to the Proposed Third Party Systems

The Exchange proposes to revise the Fee Schedule to provide that Users may obtain connectivity to the Proposed Third Party Systems for a fee. As with the current Third Party Systems, Users would connect to the Proposed Third Party Systems over the internet protocol (''IP'') network, a local area network available in the data center.[8]

As with the current Third Party Systems, in order to obtain access to a Proposed Third Party System, the User would enter into an agreement with the relevant Proposed Third Party, pursuant to which the third party content service provider would charge the User for access to the Proposed Third Party System. The Exchange would then establish a unicast connection between the User and the Proposed Third Party System over the IP network.[9] The Exchange would charge the User for the connectivity to the Proposed Third Party System. A User would only receive, and would only be charged for, access to the Proposed Third Party System for which it enters into agreements with the third party content service provider.

The Exchange has no affiliation with the providers of any of the Proposed Third Party Systems. Establishing a User's access to a Proposed Third Party System would not give the Exchange any right to use the Proposed Third Party System. Connectivity to a Proposed Third Party System would not provide access or order entry to the Exchange's execution system, and a User's connection to a Proposed Third Party System would not be through the Exchange's execution system.

Connectivity to the Proposed Third Party Data Feeds

The Exchange proposes to revise the Fee Schedule to provide that Users may obtain connectivity to the Proposed Third Party Data Feeds for a fee. As with the existing connections to Third Party Data Feeds, the Exchange would receive a Proposed Third Party Data Feed from the content service provider at the data center. The Exchange would then provide connectivity to that data to Users for a fee. Users would connect to the Proposed Third Party Data Feeds over the IP network.[10] The Proposed Third Party Data Feeds would include trading information concerning the securities that are traded on the relevant Proposed Third Party Systems.

As with the existing connections to Third Party Data Feeds, in order to connect to a Proposed Third Party Data Feed, a User would enter into a contract with the content service provider, pursuant to which the content service provider may charge the User for the data feed. The Exchange would receive the Proposed Third Party Data Feed over its fiber optic network and, after the content service provider and User entered into an agreement and the Exchange received authorization from the content service provider, the Exchange would retransmit the data to the User over the User's port. The Exchange would charge the User for connectivity to the Proposed Third Party Data Feed. A User would only receive, and would only be charged the fee for, connectivity to a Proposed Third Party Data Feed for which it entered into a contract.

The Exchange has no affiliation with the sellers of the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, or the Proposed MIAX PEARL Equities Third Party Data Feed, and would have no right to use those feeds other than as a redistributor of the data. Similarly, although the Exchange and ICE Bonds—the generator of the Proposed ICE TMC Third Party Data Feed—are both indirect subsidiaries of ICE, the Exchange would have no right to use the Proposed ICE TMC Third Party Data Feed other than as a redistributor of the data. None of the Proposed Third Party Data Feeds would provide access or order entry to the Exchange's execution system. The Proposed Third Party Data Feeds would not provide access or order entry to the execution systems of the third parties generating the feeds. The Exchange would receive the Proposed Third Party Data Feeds via arms-length agreements and would have no inherent advantage over any other distributor of such data.

Proposal To Remove Obsolete Text

Proposal To Remove References to ICE Data Global Index

The Exchange proposes to remove obsolete references to the ICE Data Global Index (the ''GIF'') from the list of Third Party Data Feeds available for connectivity and related text.

In May 2020, ICE, which publishes the GIF, announced to its customers that before the end of 2020, it would cease offering the GIF as a stand-alone product. The Exchange accordingly amended its Fee Schedule to inform customers that it would cease offering connectivity to the GIF once it is no longer available.[11]

ICE has now informed the Exchange that it ceased offering the GIF as a stand-alone product, making the references to the GIF obsolete. The operative date was announced through a customer notice. Accordingly, the Exchange proposes to remove ''ICE Data Global Index*'' and the corresponding asterisked note from the Fee Schedule.

In order to implement the proposed change, the Exchange proposes to make the following changes to the section of the Fee Schedule entitled ''Connectivity to Third Party Data Feeds'':

- In the first paragraph and in the table of Third Party Data Feeds, delete ''ICE Data Global Index*''.
- Following the table of Third Party Data Feeds, delete the following text:

** ICE will cease to offer the GIF as a stand-alone product, which the Exchange has been informed by ICE is currently expected to occur before the end of 2020. The Exchange will announce the operative date through a customer notice. Any change fees that a User would otherwise incur as a result of the proposed change will be waived.*

Proposal To Remove the Temporary Waiver of Hot Hands Fees

The Exchange proposes to remove the obsolete reference to the waiver of Hot Hands fees in light of the reopening of the Mahwah, New Jersey data center.

In March 2020, ICE announced to each User that, starting on March 16, 2020, the Mahwah, New Jersey data

[8] *See* NYSE Chicago Co-location Notice, *supra* note 4, at 58787.

[9] Information flows over existing network connections in two formats: ''unicast'' format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and ''multicast'' format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

[10] *See* NYSE Chicago Co-location Notice, *supra* note 4, at 58787.

[11] *See* Securities Exchange Act Release No. 88990 (June 2, 2020), 85 FR 34778 (June 8, 2020) (SR–NYSECHX–2020–17).

center would be closed to third parties in response to COVID–19. The Exchange temporarily waived all Hot Hands fees from the date of the closing through the date of the reopening of the data center, and added a note to the fees for the Hot Hands service stating as much.[12]

The Mahwah, New Jersey data center reopened on October 1, 2020. The date of the reopening was announced through a customer notice. As a result of the reopening, the waiver of Hot Hands fees ceased, and the note became obsolete. The Exchange now proposes to remove the obsolete text.

In order to implement this proposed change, the Exchange proposes to make the following changes to the Fee Schedule:

• In the Types of Service table, remove the ''†'' symbol after ''Hot Hands Service***''.

• Following the Types of Service table, remove the following text:

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through the reopening of the Mahwah, New Jersey data center. The date of the reopening will be announced through a customer notice.

Application and Impact of the Proposed Changes

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedule is applied uniformly to all Users.

As with the existing connections to Third Party Systems, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Systems. Specifically, when a User requests access to a Proposed Third Party System, it would identify the applicable content service provider and what bandwidth connection is required. The Exchange proposes to modify its Fee Schedule to add the Proposed Third Party Systems to its existing list of Third Party Systems. The Exchange does not propose to change the monthly recurring fee the Exchange charges Users for unicast connectivity to each Third Party System, including the Proposed Third Party Systems.

As it does with the existing Third Party Data Feeds, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Data Feeds. Depending on its needs and bandwidth, a User may opt to receive all or some of the feeds or services included in the Proposed Third Party Data Feeds. The Exchange proposes to add the following fees for connectivity to the Proposed Third Party Data Feeds to its existing list in the Fee Schedule: (i) $200 per month for ICE Data Services—ICE TMC; (ii) $3,000 per month for Members Exchange; (iii) $3,500 per month for MIAX Emerald, and (iv) $2,500 per month for MIAX PEARL Equities.

Under this proposal, obsolete references to connectivity to the GIF data feed and the temporary waiver of Hot Hands fees would be removed for all Users.

Competitive Environment

The Exchange operates in a highly competitive market in which exchanges and other vendors (*e.g.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

The proposed changes are not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, for the following reasons.

The Exchange believes that the proposed change to Access and Connectivity is reasonable and would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because by offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. In addition, the Exchange believes that the proposed change is reasonable because by offering Access and Connectivity to Users when available, the Exchange would give Users additional options for connectivity and access to new services as soon as they are available, responding to User demand for access and connectivity options.

The Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange

[12] The Exchange first waived the Hot Hands Fee in a March 17, 2020 filing, and subsequently extended the waiver four times. *See* Securities Exchange Act Release Nos. 88400 (March 17, 2020), 85 FR 16434 (March 23, 2020) (SR–NYSECHX–2020–07); 88522 (March 31, 2020), 85 FR 19191 (April 6, 2020) (SR–NYSECHX–2020–10); 88957 (May 27, 2020), 85 FR 33766 (June 2, 2020) (SR–NYSECHX–2020–15); 89176 (June 29, 2020), 85 FR 40377 (July 6, 2020) (SR–NYSECHX–2020–19); and 89654 (August 25, 2020), 85 FR 53879 (August 31, 2020) (SR–NYSECHX–2020–25).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. For these reasons, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. Although the Exchange does not have complete visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds (as such third parties are not required to make that information public), the Exchange understands that at least one other vendor is currently offering the Proposed MIAX Third Party Data Feeds. As such, the Exchange is not aware of any impediment to such third parties offering substitutes to such Access and Connectivity. If the Exchange were to propose to charge supra-competitive fees for access to any of the Proposed Third Party Systems or connectivity to any of the Proposed Third Party Data Feeds, the Exchange's competitors would respond by offering such access and connectivity at lower rates, and market participants would respond by substituting the Exchange's offerings with more competitively-priced access and connectivity options available from other providers. As such, competition and the availability of substitutes is a check on the Exchange's ability to charge unreasonable fees for Access and Connectivity.

The Exchange further believes that the proposed change to Access and Connectivity is reasonable because in order to offer the Access and Connectivity as conveniences to Users, the Exchange must provide, maintain, and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support, and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users, including resilient and redundant feeds.

In addition, in order to provide Access and Connectivity, the Exchange would establish and maintain multiple connections to each Proposed Third Party System and Proposed Third Party Data Feed, allowing the Exchange to provide resilient and redundant connections; adapt to any changes made by the relevant third party; and cover any applicable fees charged by the relevant third party, such as port fees. For example, the Exchange already offers several Third Party Data Feeds supplied by ICE Data Services, such that the Exchange could add the Proposed ICE TMC Third Party Data Feed over this established connection with less effort. In contrast, in order to offer connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Data Feed, the Exchange must establish and maintain connections to those exchanges, which requires significantly more effort. As such, it is reasonable for the Exchange to offer connectivity to the Proposed ICE TMC Third Party Data Feed at a lower fee than it proposes to charge for connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Third Party Data Feed. Further, the different fees that the Exchange proposes for the Proposed MIAX Emerald Third Party Data Feed and the Proposed MIAX PEARL Equities Third Party Data Feed are reflective of the fact that MIAX charges separate fees to the Exchange to become a distributor of each of its data feed products, and that these distribution fees that the Exchange must pay to MIAX are higher for the Proposed MIAX Emerald Third Party Data Feed than for the Proposed MIAX PEARL Equities Third Party Data Feed.

As such, the Exchange believes the proposed fees for Access and Connectivity are reasonable because they would allow the Exchange to defray or cover the costs associated with offering Users Access and Connectivity while providing Users the convenience of receiving such Access and Connectivity within co-location, helping them to tailor their data center operations to the requirements of their business operations.

The Exchange believes that removing obsolete text from the Fee Schedule would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedule are obsolete. Similarly, because the Mahwah, New Jersey data center has reopened, the note to the Hot Hands service has become obsolete. In both cases, removing the obsolete text would enhance the clarity and transparency of the Fee Schedule and reduce potential customer confusion.

The Proposed Rule Change Is Equitable

The Exchange believes that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities, for the following reasons.

First, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the

proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, irrespective of that User's size or the type of market participant it is.

Second, under the proposed rule change, only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for Access and Connectivity. Users who opt not to use the Access or Connectivity would not be charged. In this way, the proposed rule change equitably allocates the proposed fees only to Users who choose to use the Proposed Third Party Systems and Proposed Third Party Data Feeds.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Fee Schedule would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedule are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers, for the following reasons.

First, the proposed Access and Connectivity are available on equal terms to all Users. Users that opt to use the proposed Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the content provider may receive access or connectivity.

Second, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, and would not unfairly discriminate against any User based on the User's size or the type of market participant it is.

Third, the proposed rule change does not permit unfair discrimination between market participants because only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for access and connectivity. Users who opt not to use the Access or Connectivity will not be charged.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Fee Schedule would not permit unfair discrimination between customers, issuers, brokers, or dealers. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedule are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

* * * * *

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed changes would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

[17] 15 U.S.C. 78f(b)(8).

The proposed change to Access and Connectivity would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. The Exchange believes that providing Users with these additional options for access and connectivity to new services would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and would in fact enhance intramarket competition, by giving Users additional access and connectivity options through which they may differentiate their business operations from each other.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

In this way, the proposed changes would enhance intramarket competition by helping Users tailor their Access and Connectivity to the needs of their business operations by allowing them to select the form and latency of access and connectivity that best suits their needs.

The Exchange further believes that removing the GIF and its associated fee from the list of Third Party Data Feeds available for connectivity in the Fee Schedule and removing the note regarding the temporary waiver of the Hot Hands fee would not permit unfair discrimination between customers, issuers, brokers, or dealers would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue, but rather to remove obsolete text, thereby clarifying Exchange rules and alleviating any possible market participant confusion. The removal of the obsolete text would not put any market participants at a relative disadvantage compared to other market participants, or penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition

The Exchange believes that the proposed changes will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSECHX–2021–04 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–NYSECHX–2021–04. This file number should be included on the subject line if email is used. To help the

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 15 U.S.C. 78s(b)(2)(B).

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–NYSECHX–2021–04 and should be submitted on or before April 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06348 Filed 3–26–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91394; File No. SR–CBOE–2021–017]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Adopt Reduced Fees for Academics for the Sale of Historical Intraday Open-Close Volume Data

March 23, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 12, 2021, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options) proposes to amend its Fees Schedule to adopt reduced fees for academics for the sale of historical Intraday Open-Close volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to adopt reduced fees for academics for the sale of historical Intraday Open-Close Data product, which is currently available for purchase to Cboe Options Trading Permit Holders (''TPHs'') and non-TPHs.[3] By way of background, the Exchange historically offered Open-Close Data, which is an end-of-day volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), price, and transaction type (opening or closing). The customer and professional customer volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Data is proprietary Cboe Options trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The recently adopted Intraday Open-Close Data provides similar information to that of Open-Close Data but is produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period.[4] The Intraday Open-Close Data provides a volume summary of trading activity on the Exchange at the option level by origin (customer, professional customer, broker-dealer, and market maker), side of the market (buy or sell), and transaction type (opening or closing). The customer and professional customer volume are further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Intraday Open-Close Data is also proprietary Cboe Options trade data and does not include trade data from any other exchange.

Cboe LiveVol, LLC (''LiveVol''), a wholly owned subsidiary of the Exchange's parent company, Cboe Global Markets, Inc., makes the Intraday Open-Close Data available for purchase to TPHs and non-TPHs on the LiveVol DataShop website (*datashop.cboe.com*). Customers may currently purchase Intraday Open-Close Data on a subscription basis (monthly or annually) or by ad hoc request for a specified month (historical file). The Exchange seeks only to amend the price per year for historical ad hoc requests for Intraday Open-Close Data for academic purchasers. Currently, ad hoc requests for historical Intraday Open-Close Data is available to all customers at the same price and in the same manner. The current charge for this historical Intraday Open-Close Data covering all of the Exchange's securities ((Equities, Indexes & ETF's) is $1,000 per month

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on March 1, 2021 (SR–CBOE–2021–016). On March 12, 2021, the Exchange withdrew that filing and submitted this filing.

[4] For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:42 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update at 9:52 a.m., representing the data previously provided together with data captured from 9:40 a.m. through 9:50 a.m., and so forth. Each update will represent the aggregate data captured from the current ''snapshot'' and all previous ''snapshots.''

(*i.e.,* $12,000 per year). The Exchange now proposes to charge qualifying academic purchasers $3,000 per year for the first year (instead of $12,000 per year) and $250 per month thereafter for historical Intraday Open-Close Data covering all of the Exchange's securities. Particularly, the Exchange believes that academic institutions and researchers provide a valuable service for the Exchange in studying and promoting the options market. Though academic institutions and researchers have need for granular options data sets, they do not trade upon the data for which they subscribe. The Exchange believes the proposed reduced fee for qualifying academic purchasers of historical Intraday Open-Close Data will encourage and promote academic studies of its market data by academic institutions. In order to qualify for the academic pricing, an academic purchaser must be (1) an accredited academic institution or member of the faculty or staff of such an institution, (2) that will use the data in independent academic research, academic journals and other publications, teaching and classroom use, or for other bona fide educational purposes (*i.e.,* academic use). Furthermore, use of the data must be limited to faculty and students of an accredited academic institution, and any commercial or profit-seeking usage is excluded. Academic pricing will not be provided to any purchaser whose research is funded by a securities industry participant. Cboe LiveVol subscriber policies will reflect the academic discount program, and academic users interested in qualifying will be required to submit a brief application. Cboe LiveVol Business Development will have the discretion to review and approve such applications and request additional information when it deems necessary.

The Exchange notes that another exchange currently offers an academic discount for a similar data feed.[5] Additionally, the Exchange offers an academic discount for the similar historical Open-Close Data product.[6] The Exchange recognizes the high value of academic research and educational instruction and publications, and believes that the proposed academic discount for historical Intraday Open-Close Data will encourage the promotion academic research of the options industry, which will serve to benefit all market participants while also opening up a new potential user base among students. Finally, the Exchange notes that academic purchasers' ad hoc requests of historical Intraday Open-Close Data would be educational in use and purpose, and not vocational.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[7] in general, and furthers the objectives of Section 6(b)(4),[8] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [9] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the discount for qualifying academic purchasers of the ad hoc historical Intraday Open-Close Data is reasonable because academic users are not able to monetize access to the data as they do not trade on the data set. The Exchange believes the proposed discount will allow for more academic institutions and faculty members to purchase historical Intraday Open-Close Data, and, as a result, promote research and studies of the options industry to the benefit of all market participants. The Exchange believes that the proposed discount is equitable and not unfairly discriminatory because it will apply equally to all academic users that submit an application and meet the accredited academic institution or faculty member and academic use criteria. As stated above, qualified academic users will subscribe to the data set for educational use and purposes and are not permitted to use the data for commercial or monetizing purposes, nor can qualify if they are funded by an industry participant. As a result, the Exchange believes the proposed discount is equitable and not unfairly discriminatory because it maintains equal treatment for all industry participants or other subscribers that use the data for vocational, commercial or other for-profit purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change will apply to all qualifying academic purchasers uniformly. While the proposed fee reduction applies only to qualifying academic purchasers, academic purchasers' research and publications as a result of access to historical market data benefits all market participants. The Exchange also does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as other another exchange currently offers similar historical intraday data to academic users at a discounted price. Offering a discount for qualifying academic institutions and faculty members that purchase the Exchange's historical Intraday Open-Close Data may make that data more attractive to such academic users and further increase competition with exchanges that offer similar historical data products.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

[5] *See* Nasdaq ISE, Options 7 Pricing Schedule, Section 10A., Nasdaq ISE Open/Close Trade Profile Intraday.

[6] *See* Cboe Options Fees Schedule, Livevol Fees, Open Close Data.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f.(b)(5).

[10] *Id.*

of the Act [11] and paragraph (f)(2) of Rule 19b–4 [12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2021–017 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–CBOE–2021–017. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2021–017 and should be submitted on or before April 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

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BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91388; File No. SR–NYSEArca–2021–15]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges and the NYSE Arca Options Fees and Charges Related to Co-Location

March 23, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b-4 thereunder,[3] notice is hereby given that, on March 10, 2021, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges and the NYSE Arca Options Fees and Charges (together, the ''Fee Schedules'') related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedules related to co-location to (i) provide Users with access to the systems, and connectivity to the data feeds, of various additional third parties; and (ii) remove obsolete text.

Proposal To Add Additional Third Party Systems and Third Party Data Feeds

The Exchange proposes to amend the co-location [4] services offered by the Exchange to provide Users [5] with access to the systems, and connectivity to the data feeds, of various additional third parties. The Exchange proposes to make the corresponding amendments to the Exchange's Fee Schedules related to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange is an indirect subsidiary of Intercontinental Exchange, Inc. (''ICE'').

[5] For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC, NYSE American LLC, NYSE Chicago, Inc., and NYSE National, Inc. (together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80). Each Affiliate SRO has submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05.

these co-location services to reflect these proposed changes.

As set forth in the Fee Schedules, the Exchange charges fees for connectivity to the execution systems of third party markets and other content service providers (''Third Party Systems''), and data feeds from third party markets and other content service providers (''Third Party Data Feeds'').[6] The lists of Third Party Systems and Third Party Data Feeds are set forth in the Fee Schedules.

The Exchange proposes to provide access to the following additional Third Party Systems: Long Term Stock Exchange, Members Exchange, MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade (the ''Proposed Third Party Systems''). The Exchange also proposes to amend the Fee Schedules to change the name of the ''Miami International Securities Exchange'' Third Party System to ''MIAX Options,'' to change the name of the ''MIAX PEARL'' Third Party System to ''MIAX PEARL Options,'' and to combine MIAX Options, MIAX PEARL Options, MIAX PEARL Equities, and MIAX Emerald as a single Third Party System on its Fee Schedules. The list of available Third Party Systems in the Fee Schedules would be amended as follows:

Third party systems
* * * * *
ITG TriAct Matchnow
Long Term Stock Exchange (LTSE)
Members Exchange (MEMX)
[Miami International Securities Exchange]
MIAX Options, MIAX PEARL *Options, MIAX PEARL Equities, and MIAX Emerald*
Morgan Stanley
Nasdaq
* * * * *
OTC Markets Group
TD Ameritrade
TMX Group

In addition, the Exchange proposes to provide connectivity to data feeds from Members Exchange (the ''Proposed MEMX Third Party Data Feed''), MIAX Emerald (the ''Proposed MIAX Emerald Third Party Data Feed''), MIAX PEARL Equities (the ''Proposed MIAX PEARL Equities Third Party Data Feed''), and ICE Data Services—ICE TMC[7] (the ''Proposed ICE TMC Third Party Data Feed'') (collectively, the ''Proposed Third Party Data Feeds''). The Exchange also proposes to change the name of the current ''Miami International Securities Exchange/MIAX PEARL'' Third Party Data Feed to ''MIAX Options/MIAX PEARL Options'' on its Fee Schedules. Further, the Exchange proposes to delete the ''NASDAQ OMDF'' data feed from the list, as it is no longer offered by the content service provider. Finally, the Exchange proposes to change the name of the current ''SR Labs—SuperFeed'' data feeds to ''Vela—SuperFeed,'' to reflect the content provider's recent change to the name of these products.

The list of available Third Party Data Feeds in the Fee Schedules would be amended as follows:

Third party data feed	Monthly recurring connectivity fee per third party data feed
* * * * * * *	
Global OTC	$100
[ICE Data Global Index*]	[100]
ICE Data Services Consolidated Feed ≤100 Mb	200
* * * * * * *	
ICE Data Services Consolidated Feed Shared Farm >1 Gb	1,000
ICE Data Services—ICE TMC	*200*
ICE Data Services PRD	200
* * * * * * *	
ITG TriAct Matchnow	1,000
Members Exchange (MEMX)	*3,000*
MIAX Emerald	*3,500*
[Miami International Securities Exchange]*MIAX Options*/MIAX PEARL *Options*	2,000
MIAX PEARL Equities	*2,500*
Montréal Exchange (MX)	1,000
* * * * * * *	
NASDAQ OMX Global Index Data Service	100
[NASDAQ OMDF]	[100]
NASDAQ UQDF & UTDF	500
* * * * * * *	
OTC Markets Group	1,000
Vela[SR Labs]—SuperFeed <500 Mb	250
Vela[SR Labs]—SuperFeed >500 Mb to <1.25 Gb	800
Vela[SR Labs]—SuperFeed >1.25 Gb	1,000
TMX Group	2,500
* * * * * * *	

[6] *See* Securities Exchange Act Release No. 80310 (March 24, 2017), 82 FR 15763 (March 30, 2017) (SR–NYSEArca–2016–89).

[7] The Proposed ICE TMC Third Party Data Feed is generated by ICE Bonds, an indirect subsidiary of ICE, and includes market data for the ICE TMC alternative trading system. It does not include market data of the Exchange or Affiliate SROs.

The Exchange would provide access to the Proposed Third Party Systems (''Access'') and connectivity to the Proposed Third Party Data Feeds (''Connectivity'') as conveniences to Users. Use of Access or Connectivity would be completely voluntary.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as such third parties are not required to make that information public. However, the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. The Exchange is not aware of any impediment to such third parties offering access to the Proposed Third Party Systems or connectivity to the Proposed Third Party Data Feeds.

If one or more third parties presently offer, or in the future opt to offer, such Access and Connectivity to Users, a User may utilize the ICE Data Services (''IDS'') network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

Access to the Proposed Third Party Systems

The Exchange proposes to revise the Fee Schedules to provide that Users may obtain connectivity to the Proposed Third Party Systems for a fee. As with the current Third Party Systems, Users would connect to the Proposed Third Party Systems over the internet protocol (''IP'') network, a local area network available in the data center.[8]

As with the current Third Party Systems, in order to obtain access to a Proposed Third Party System, the User would enter into an agreement with the relevant Proposed Third Party, pursuant to which the third party content service provider would charge the User for access to the Proposed Third Party System. The Exchange would then establish a unicast connection between the User and the Proposed Third Party System over the IP network.[9] The Exchange would charge the User for the connectivity to the Proposed Third Party System. A User would only receive, and would only be charged for, access to the Proposed Third Party System for which it enters into agreements with the third party content service provider.

The Exchange has no affiliation with the providers of any of the Proposed Third Party Systems. Establishing a User's access to a Proposed Third Party System would not give the Exchange any right to use the Proposed Third Party System. Connectivity to a Proposed Third Party System would not provide access or order entry to the Exchange's execution system, and a User's connection to a Proposed Third Party System would not be through the Exchange's execution system.

Connectivity to the Proposed Third Party Data Feeds

The Exchange proposes to revise the Fee Schedules to provide that Users may obtain connectivity to the Proposed Third Party Data Feeds for a fee. As with the existing connections to Third Party Data Feeds, the Exchange would receive a Proposed Third Party Data Feed from the content service provider at the data center. The Exchange would then provide connectivity to that data to Users for a fee. Users would connect to the Proposed Third Party Data Feeds over the IP network.[10] The Proposed Third Party Data Feeds would include trading information concerning the securities that are traded on the relevant Proposed Third Party Systems.

As with the existing connections to Third Party Data Feeds, in order to connect to a Proposed Third Party Data Feed, a User would enter into a contract with the content service provider, pursuant to which the content service provider may charge the User for the data feed. The Exchange would receive the Proposed Third Party Data Feed over its fiber optic network and, after the content service provider and User entered into an agreement and the Exchange received authorization from the content service provider, the Exchange would retransmit the data to the User over the User's port. The Exchange would charge the User for connectivity to the Proposed Third Party Data Feed. A User would only receive, and would only be charged the fee for, connectivity to a Proposed Third Party Data Feed for which it entered into a contract.

The Exchange has no affiliation with the sellers of the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, or the Proposed MIAX PEARL Equities Third Party Data Feed, and would have no right to use those feeds other than as a redistributor of the data. Similarly, although the Exchange and ICE Bonds—the generator of the Proposed ICE TMC Third Party Data Feed—are both indirect subsidiaries of ICE, the Exchange would have no right to use the Proposed ICE TMC Third Party Data Feed other than as a redistributor of the data. None of the Proposed Third Party Data Feeds would provide access or order entry to the Exchange's execution system. The Proposed Third Party Data Feeds would not provide access or order entry to the execution systems of the third parties generating the feeds. The Exchange would receive the Proposed Third Party Data Feeds via arms-length agreements and would have no inherent advantage over any other distributor of such data.

Proposal To Remove Obsolete Text

Proposal To Remove References to ICE Data Global Index

The Exchange proposes to remove obsolete references to the ICE Data Global Index (the ''GIF'') from the list of Third Party Data Feeds available for connectivity and related text.

In May 2020, ICE, which publishes the GIF, announced to its customers that before the end of 2020, it would cease offering the GIF as a stand-alone product. The Exchange accordingly amended its Fee Schedules to inform customers that it would cease offering connectivity to the GIF once it is no longer available.[11]

ICE has now informed the Exchange that it ceased offering the GIF as a stand-alone product, making the references to the GIF obsolete. The operative date was announced through a customer notice. Accordingly, the Exchange proposes to remove ''ICE Data Global Index*'' and the corresponding asterisked note from the Fee Schedules.

In order to implement the proposed change, the Exchange proposes to make the following changes to the section of the Fee Schedules entitled

[8] *See* Securities Exchange Act Release No. 74219 (February 6, 2015), 80 FR 7899 (February 12, 2015) (SR–NYSEArca–2015–03) (notice of filing and immediate effectiveness of proposed rule change to include IP network connections).

[9] Information flows over existing network connections in two formats: ''unicast'' format, which is a format that allows one-to-one communication, similar to a phone line, in which information is sent to and from the Exchange; and ''multicast'' format, which is a format in which information is sent one-way from the Exchange to multiple recipients at once, like a radio broadcast.

[10] *See supra* note 8 at 7899 (''The IP network also provides Users with access to away market data products'').

[11] *See* Securities Exchange Act Release No. 88980 (June 1, 2020), 85 FR 34697 (June 5, 2020) (SR–NYSEArca–2020–49).

''Connectivity to Third Party Data Feeds'':

• In the first paragraph and in the table of Third Party Data Feeds, delete ''ICE Data Global Index* ''.

• Following the table of Third Party Data Feeds, delete the following text:

* *ICE will cease to offer the GIF as a stand-alone product, which the Exchange has been informed by ICE is currently expected to occur before the end of 2020. The Exchange will announce the operative date through a customer notice. Any change fees that a User would otherwise incur as a result of the proposed change will be waived.*

Proposal To Remove the Temporary Waiver of Hot Hands Fees

The Exchange proposes to remove the obsolete reference to the waiver of Hot Hands fees in light of the reopening of the Mahwah, New Jersey data center.

In March 2020, ICE announced to each User that, starting on March 16, 2020, the Mahwah, New Jersey data center would be closed to third parties in response to COVID–19. The Exchange temporarily waived all Hot Hands fees from the date of the closing through the date of the reopening of the data center, and added a note to the fees for the Hot Hands service stating as much.[12]

The Mahwah, New Jersey data center reopened on October 1, 2020. The date of the reopening was announced through a customer notice. As a result of the reopening, the waiver of Hot Hands fees ceased, and the note became obsolete. The Exchange now proposes to remove the obsolete text.

In order to implement this proposed change, the Exchange proposes to make the following changes to the Fee Schedules:

• In the Types of Service table, remove the ''†'' symbol after ''Hot Hands Service''.

• Following the Types of Service table, remove the following text:

† Fees for Hot Hands Services will be waived beginning on March 16, 2020 through the reopening of the Mahwah, New Jersey data center. The date of the reopening will be announced through a customer notice.

[12] The Exchange first waived the Hot Hands Fee in a March 17, 2020 filing, and subsequently extended the waiver four times. *See* Securities Exchange Act Release Nos. 88398 (March 17, 2020), 85 FR 16398 (March 23, 2020) (SR–NYSEArca–2020–22); 88520 (March 31, 2020), 85 FR 19208 (April 6, 2020) (SR–NYSEArca–2020–26); 88961 (May 27, 2020), 85 FR 33755 (June 2, 2020) (SR–NYSEArca–2020–47); 89174 (June 29, 2020), 85 FR 40349 (July 6, 2020) (SR–NYSEArca–2020–58); and 89652 (August 25, 2020), 85 FR 53885 (August 31, 2020) (SR–NYSEArca–2020–74).

Application and Impact of the Proposed Changes

The proposed changes would not apply differently to distinct types or sizes of market participants. Rather, they would apply to all Users equally. As is currently the case, the purchase of any colocation service is completely voluntary and the Fee Schedules are applied uniformly to all Users.

As with the existing connections to Third Party Systems, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Systems. Specifically, when a User requests access to a Proposed Third Party System, it would identify the applicable content service provider and what bandwidth connection is required. The Exchange proposes to modify its Fee Schedules to add the Proposed Third Party Systems to its existing list of Third Party Systems. The Exchange does not propose to change the monthly recurring fee the Exchange charges Users for unicast connectivity to each Third Party System, including the Proposed Third Party Systems.

As it does with the existing Third Party Data Feeds, the Exchange proposes to charge a monthly recurring fee for connectivity to the Proposed Third Party Data Feeds. Depending on its needs and bandwidth, a User may opt to receive all or some of the feeds or services included in the Proposed Third Party Data Feeds. The Exchange proposes to add the following fees for connectivity to the Proposed Third Party Data Feeds to its existing list in the Fee Schedules: (i) $200 per month for ICE Data Services—ICE TMC; (ii) $3,000 per month for Members Exchange; (iii) $3,500 per month for MIAX Emerald, and (iv) $2,500 per month for MIAX PEARL Equities.

Under this proposal, obsolete references to connectivity to the GIF data feed and the temporary waiver of Hot Hands fees would be removed for all Users.

Competitive Environment

The Exchange operates in a highly competitive market in which exchanges and other vendors (*e.g.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

The proposed changes are not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange further believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Proposed Rule Change Is Reasonable

The Exchange believes that the proposed rule change is reasonable and would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest, for the following reasons.

The Exchange believes that the proposed change to Access and Connectivity is reasonable and would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because by offering additional services, the Exchange would give each

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. In addition, the Exchange believes that the proposed change is reasonable because by offering Access and Connectivity to Users when available, the Exchange would give Users additional options for connectivity and access to new services as soon as they are available, responding to User demand for access and connectivity options.

The Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. For these reasons, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

The Exchange also believes that the proposed rule change to Access and Connectivity is reasonable because the market for access to Third Party Systems and connectivity to Third Party Data Feeds is competitive. The Exchange competes with other providers—including other colocation providers and market data vendors—that offer access to Third Party Systems and connectivity to Third Party Data Feeds. Although the Exchange does not have complete visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds (as such third parties are not required to make that information public), the Exchange understands that at least one other vendor is currently offering the Proposed MIAX Third Party Data Feeds. As such, the Exchange is not aware of any impediment to such third parties offering substitutes to such Access and Connectivity. If the Exchange were to propose to charge supra-competitive fees for access to any of the Proposed Third Party Systems or connectivity to any of the Proposed Third Party Data Feeds, the Exchange's competitors would respond by offering such access and connectivity at lower rates, and market participants would respond by substituting the Exchange's offerings with more competitively-priced access and connectivity options available from other providers. As such, competition and the availability of substitutes is a check on the Exchange's ability to charge unreasonable fees for Access and Connectivity.

The Exchange further believes that the proposed change to Access and Connectivity is reasonable because in order to offer the Access and Connectivity as conveniences to Users, the Exchange must provide, maintain, and operate the data center facility hardware and technology infrastructure. The Exchange must handle the installation, administration, monitoring, support, and maintenance of such services, including by responding to any production issues. Since the inception of co-location, the Exchange has made numerous improvements to the network hardware and technology infrastructure and has established additional administrative controls. The Exchange has expanded the network infrastructure to keep pace with the increased number of services available to Users, including resilient and redundant feeds.

In addition, in order to provide Access and Connectivity, the Exchange would establish and maintain multiple connections to each Proposed Third Party System and Proposed Third Party Data Feed, allowing the Exchange to provide resilient and redundant connections; adapt to any changes made by the relevant third party; and cover any applicable fees charged by the relevant third party, such as port fees. For example, the Exchange already offers several Third Party Data Feeds supplied by ICE Data Services, such that the Exchange could add the Proposed ICE TMC Third Party Data Feed over this established connection with less effort. In contrast, in order to offer connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Data Feed, the Exchange must establish and maintain connections to those exchanges, which requires significantly more effort. As such, it is reasonable for the Exchange to offer connectivity to the Proposed ICE TMC Third Party Data Feed at a lower fee than it proposes to charge for connectivity to the Proposed MEMX Third Party Data Feed, the Proposed MIAX Emerald Third Party Data Feed, and the Proposed MIAX PEARL Equities Third Party Data Feed. Further, the different fees that the Exchange proposes for the Proposed MIAX Emerald Third Party Data Feed and the Proposed MIAX PEARL Equities Third Party Data Feed are reflective of the fact that MIAX charges separate fees to the Exchange to become a distributor of each of its data feed products, and that these distribution fees that the Exchange must pay to MIAX are higher for the Proposed MIAX Emerald Third Party Data Feed than for the Proposed MIAX PEARL Equities Third Party Data Feed.

As such, the Exchange believes the proposed fees for Access and Connectivity are reasonable because they would allow the Exchange to defray or cover the costs associated with offering Users Access and Connectivity while providing Users the convenience of receiving such Access and Connectivity within co-location, helping them to tailor their data center operations to the requirements of their business operations.

The Exchange believes that removing obsolete text from the Fee Schedules would perfect the mechanisms of a free and open market and a national market

system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedules are obsolete. Similarly, because the Mahwah, New Jersey data center has reopened, the note to the Hot Hands service has become obsolete. In both cases, removing the obsolete text would enhance the clarity and transparency of the Fee Schedules and reduce potential customer confusion.

The Proposed Rule Change Is Equitable

The Exchange believes that the proposed rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities, for the following reasons.

First, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, irrespective of that User's size or the type of market participant it is.

Second, under the proposed rule change, only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for Access and Connectivity. Users who opt not to use the Access or Connectivity would not be charged. In this way, the proposed rule change equitably allocates the proposed fees only to Users who choose to use the Proposed Third Party Systems and Proposed Third Party Data Feeds.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Fee Schedules would perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedules are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

The Proposed Change Is Not Unfairly Discriminatory

The Exchange believes that the proposed rule change does not permit unfair discrimination between customers, issuers, brokers, or dealers, for the following reasons.

First, the proposed Access and Connectivity are available on equal terms to all Users. Users that opt to use the proposed Access or Connectivity would not receive access or connectivity that is not available to all Users, as all market participants that contract with the content provider may receive access or connectivity.

Second, the proposed fees for Access and Connectivity would not apply differently to different types or sizes of market participants. Rather, the proposed fees would apply equally to any User that opts to access the Proposed Third Party Systems or connect to the Proposed Third Party Data Feeds, and would not unfairly discriminate against any User based on the User's size or the type of market participant it is.

Third, the proposed rule change does not permit unfair discrimination between market participants because only Users that choose to connect to the Proposed Third Party Systems and Proposed Third Party Data Feeds would be charged the proposed fees for access and connectivity. Users who opt not to use the Access or Connectivity will not be charged.

In addition, as noted above, the Exchange would provide Access and Connectivity as conveniences to Users. Use of Access or Connectivity would be completely voluntary. By offering additional services, the Exchange would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. A User that does not wish to use the Access or Connectivity offered by the Exchange is not required to do so.

The Exchange is not aware of any impediment to third parties offering Access or Connectivity. The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

The Exchange believes that removing obsolete text from the Fee Schedules would not permit unfair discrimination between customers, issuers, brokers, or dealers. Because the GIF is no longer available as a stand-alone data feed, the references to the GIF and its associated fee in the Fee Schedules are obsolete. Similarly, because the Mahwah data center has reopened, the note to the Hot Hands service has become obsolete. The changes would have no impact on pricing. Rather, they would remove obsolete text, thereby clarifying the Exchange rules and alleviating possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions

established from time to time by the Exchange.

* * * * *

For all these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition

The Exchange believes that the proposed changes would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The proposed change to Access and Connectivity would give each User additional options for addressing its access and connectivity needs, responding to User demand for access and connectivity options. Providing additional services would help each User tailor its data center operations to the requirements of its business operations by allowing it to select the form and latency of access and connectivity that best suits its needs. The Exchange believes that providing Users with these additional options for access and connectivity to new services would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, and would in fact enhance intramarket competition, by giving Users additional access and connectivity options through which they may differentiate their business operations from each other.

The Exchange does not have visibility into whether third parties currently offer, or intend to offer, Users access to the Proposed Third Party Systems and connectivity to the Proposed Third Party Data Feeds, as third parties are not required to make that information public. However, if one or more third parties presently offer, or in the future opt to offer, such access and connectivity to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.

In this way, the proposed changes would enhance intramarket competition by helping Users tailor their Access and Connectivity to the needs of their business operations by allowing them to select the form and latency of access and connectivity that best suits their needs.

The Exchange further believes that removing the GIF and its associated fee from the list of Third Party Data Feeds available for connectivity in the Fee Schedules and removing the note regarding the temporary waiver of the Hot Hands fee would not permit unfair discrimination between customers, issuers, brokers, or dealers would not place any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issue, but rather to remove obsolete text, thereby clarifying Exchange rules and alleviating any possible market participant confusion. The removal of the obsolete text would not put any market participants at a relative disadvantage compared to other market participants, or penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition

The Exchange believes that the proposed changes will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, for the following reasons.

The Exchange operates in a highly competitive market in which exchanges and other vendors (*i.e.,* Hosting Users) offer co-location services as a means to facilitate the trading and other market activities of those market participants who believe that co-location enhances the efficiency of their operations. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of, and other business from, such market participants. If a particular exchange charges excessive fees for co-location services, affected market participants will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including placing their servers in a physically proximate location outside the exchange's data center (which could be a competing exchange), or pursuing strategies less dependent upon the lower exchange-to-participant latency associated with co-location. Accordingly, an exchange charging excessive fees would stand to lose not only co-location revenues but also the liquidity of the formerly co-located trading firms, which could have additional follow-on effects on the market share and revenue of the affected exchange.

For these reasons, the Exchange believes that the proposed rule change reflects this competitive environment and does not impose any undue burden on intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19 b–4(f)(6) thereunder.[19] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19 b–4(f)(6)(iii) thereunder.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

[17] 15 U.S.C. 78f(b)(8).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19 b–4(f)(6).

[20] 17 CFR 240.19 b–4(f)(6). In addition, Rule 19 b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 15 U.S.C. 78s(b)(2)(B).

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–NYSEArca–2021–15 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–NYSEArca-2021–15. 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–NYSEArca–2021–15 and should be submitted on or before April 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06345 Filed 3–26–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before May 28, 2021.

ADDRESSES: Send all comments to Cynthia Pitts, Director, Disaster Administrative Services, Office of Disaster Assistance, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Director, Disaster Administrative Services, Disaster Assistance, *cynthia.pitts@sba.gov* 202–205–7570, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The requested information is submitted by homeowners or renters when applying for federal financial assistance (loans) to help in their recovery from a declared disaster. SBA uses the information to determine the creditworthiness of these loan applicants, as well as their eligibility for financial assistance.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

[22] 17 CFR 200.30–3(a)(12).

Summary of Information Collection

PRA 3245–0018

(1) *Title:* Disaster Home Loan Application.

Description of Respondents: Disaster Recovery Victims.

Form Number: SBA Form 5C.

Total Estimated Annual Responses: 34,273.

Total Estimated Annual Hour Burden: 42,841.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–06420 Filed 3–26–21; 8:45 am]

BILLING CODE 8026–03–P

STATE JUSTICE INSTITUTE

SJI Board of Directors Meeting; Notice

AGENCY: State Justice Institute.

ACTION: Notice of meeting.

SUMMARY: The SJI Board of Directors will be meeting on Monday, April 5, 2021 at 2:30 p.m. ET. The purpose of this meeting is to consider grant applications for the 2nd quarter of FY 2021, and other business.

FOR FURTHER INFORMATION CONTACT: Jonathan Mattiello, Executive Director, State Justice Institute, 12700 Fair Lakes Circle, Suite 340, Fairfax, VA 22033, 703–660–4979, *contact@sji.gov.*

Jonathan D. Mattiello,

Executive Director.

[FR Doc. 2021–06332 Filed 3–26–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Notice of Final Federal Agency Actions on Proposed Highway Projects in Texas

AGENCY: Texas Department of Transportation (TxDOT), Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of limitation on claims for judicial review of actions by TxDOT and Federal agencies.

SUMMARY: This notice announces actions taken by TxDOT and Federal agencies that are final. The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT pursuant to an assignment agreement executed by FHWA and TxDOT. The actions relate to various proposed highway projects in the State of Texas. These actions grant licenses, permits, and approvals for the projects.

DATES: By this notice, TxDOT is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of TxDOT and Federal agency actions on the highway projects will be barred unless the claim is filed on or before the deadline. For the projects listed below, the deadline is 150 days from the date of publication. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such a claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Carlos Swonke, Environmental Affairs Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701; telephone: (512) 416–2734; email: *carlos.swonke@txdot.gov.* TxDOT's normal business hours are 8:00 a.m.–5:00 p.m. (central time), Monday through Friday.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for these projects are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

Notice is hereby given that TxDOT and Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the highway projects in the State of Texas that are listed below.

The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) issued in connection with the projects and in other key project documents. The CE, EA, or EIS and other key documents for the listed projects are available by contacting TxDOT at the address provided above.

This notice applies to all TxDOT and Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101 *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1377] (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction.)

The projects subject to this notice are:

1. IH 30 from IH 35E to IH 45 in Dallas County, Texas. The proposed improvements consist of the full reconstruction of the proposed urban freeway with six mainlanes in each direction, and discontinuous frontage roads. The proposed exit and entrance ramps will be on the right to meet driver expectations and to improve safety. The proposed mainlanes would consist of six 12-foot-wide travel lanes in each direction, and 10-foot-wide inside and outside shoulders. The project would also include ramping improvements and widen cross street bridges to provide 12-foot wide travel lanes and add dedicated bicycle lanes in both directions. The total project length is approximately 1.5 miles. The purpose of the proposed project is to improve safety and mobility and accommodate future traffic demands. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on December 7, 2020, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

2. Rocket Lane/Schaefer Road from E Norris Drive to Loop 1604, Bexar County, Texas. The project includes the construction of additional travel and turn lanes, bicycle and pedestrian accommodations, and drainage improvements. The project is approximately 0.8 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion issued on December 15, 2020, and other documents in the TxDOT project file. The Categorical Exclusion determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615–5839.

3. US 67 at Lake Ridge Parkway in Dallas and Ellis Counties, Texas. The proposed project would include a grade separation at Lake Ridge Parkway and the reconstruction of US 67 mainlanes and frontage roads from north of Shiloh Road to south of Mt. Lebanon Road. The proposed US 67 mainlanes would consist of four 12-foot lanes (two in each direction), 22-foot inside shoulder, and 10-foot outside shoulders. A 26-foot wide grassy median would separate northbound and southbound mainlanes. The 22-foot inside shoulder would be restriped in the future to add one additional travel lane in each direction. The proposed improvements to Lake Ridge Parkway would consist of a grade-separated interchange with an overpass of US 67, six 12-foot lanes (three in each direction), 10-foot raised median, curb and gutter, and Texas U-turns. The total project length is approximately 1.9 miles. The purpose of the proposed project to reduce traffic congestion, enhance connectivity, and improve mobility and safety. The actions by

TxDOT and Federal agencies and the laws under which such actions were taken are described in the Categorical Exclusion Determination issued on February 4, 2021, and other documents in the TxDOT project file. The Categorical Exclusion Determination and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

4. FM 2001 from I–35 to SH 21, Hays and Caldwell Counties, Texas. The project will improve and realign FM 2001 to include construction of four travel lanes, two in each direction, with a raised median and sidewalks along urban portions of the proposed roadway and a center left turn lane and wide outside shoulders in the suburban section. The project is approximately 8.5 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on January 24, 2021 and other documents in the TxDOT project file. The EA, FONSI and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or the TxDOT Austin District Office at 7901 North I–35, Austin, TX 78753; telephone: 512–832–7000.

5. Loop 1604 from SH 16 to I–35, Bexar County, Texas. The project will expand Loop 1604 to a ten-lane expressway. The layout of auxiliary lanes and entrance and exit ramps would be reconfigured. The interchange at I–10 would be modernized by removing the cloverleaf connectors, adding direct connectors, and replacing the signalized frontage road intersections with a continuous flow configuration. The project would include accommodations for bicyclists and pedestrians, water quality protection, and other highway features. All improvements would be located within the existing right of way and easements. The project is approximately 24 miles in length. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), the Finding of No Significant Impact (FONSI) issued on February 4, 2021 and other documents in the TxDOT project file. The EA, FONSI and other documents in the TxDOT project file are available by contacting TxDOT at the address provided above or TxDOT San Antonio District Office at 4615 NW Loop 410, San Antonio, TX 78229; telephone: (210) 615–5839.

6. US 377 from BUS 377E to US 380, Denton County, Texas. The proposed project would reconstruct, realign, and widen US 377 within the proposed limits. Improvements would include the expansion of the current 2-lane rural roadway to a 6-lane urban roadway with a raised median. Improvements would consist of 12-foot-wide travel lanes, 14-foot-wide outside shared-use lanes, and 5-foot sidewalks. The length of the proposed project is approximately 13.7 miles. The purpose of the proposed project is to reduce traffic congestion on the existing roadways; to improve operations of the roadway; to increase mobility (including pedestrian and bicycle accommodations); and, to provide improved connectivity to the area. The actions by TxDOT and Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), Finding of No Significant Impact (FONSI) issued on February 17, 2021 and other documents in the TxDOT project file. The EA and other documents are available by contacting TxDOT at the address provided above or the TxDOT Dallas District Office at 4777 E Highway 80, Mesquite, TX 75150; telephone: (214) 320–4480.

Authority: 23 U.S.C. 139(l)(1).

Michael T. Leary,

Director, Planning and Program Development, Federal Highway Administration.

[FR Doc. 2021–06434 Filed 3–26–21; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2021–0003]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Survey of FTA Stakeholders.

DATES: Comments must be submitted before May 28, 2021.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov. Docket:* For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Alexandra Galanti (202) 366–5129 or email: *Alexandra.Galanti@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to

enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Survey of FTA Stakeholders (OMB Number: 2132–0564).

Background: Executive Order 12862, ''Streamlining Service Delivery and Improving Customer Service,'' requires FTA to identify its stakeholders and address how the agency will provide services in a manner that seeks to streamline service delivery and improve the experience of its customers. FTA is seeking a three-year approval of an existing information collection that will allow FTA to collect data from transit agencies, states and metropolitan planning organizations. FTA will utilize the survey to assess how its services are perceived by its customers, learn about opportunities for improvement and establish goals to measure results. The data captured from the survey will provide this information and enable FTA to make improvements where necessary. The survey will be limited to data collections that solicit voluntary opinions and will not involve information that is required by regulations.

Respondents: Transit agencies, States, and Metropolitan Planning Organizations.

Estimated Annual Burden on Respondents: 1,875.

Estimated Total Annual Burden: 469 hours.

Estimated Total Burden Cost: $43,688.

Frequency: Biennial.

Nadine Pembleton,

Director, Office of Management Planning.

[FR Doc. 2021–06374 Filed 3–26–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to Forms That Authenticate an Electronic Signature and Employment Tax Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden related to completing forms that authenticate an electronic signature and employment tax return.

DATES: Written comments should be received on or before May 28, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Declaration and Signature for Electronic and Magnetic Media Filing.

OMB Number: 1545–0967.

Regulation Project Number: Forms 8879–F, 8453–FE, 8453–EMP, and 8879–EMP.

Abstract: The IRS is actively engaged in encouraging e-filing and electronic documentation. These forms are used to secure taxpayer signatures and declarations in conjunction with electronic or magnetic media filing of income tax returns. Form 8453–FE is used to authenticate the electronic Form 1041, *U.S. Income Tax Return for Estates and Trusts.* Form 8453–EMP is used to authenticate an electronic employment tax form, authorize the electronic return originator (ERO). Form 8879–EMP is used to authenticate an electronic employment tax return or request for refund, authorize an ERO or ISP to transmit via a third-party, and authorize an electronic funds withdrawal for payment of employment taxes owe. Form 8879–F is used by an electronic return originator when the fiduciary wants to use a personal identification number to electronically sign an estate's or trust's electronic income tax return, and if applicable consent to electronic funds withdrawal.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Businesses and other for-profit organizations.

Estimated Number of Responses: 21,000,881.

Estimated Time per Respondent: 2 hrs., 34 min.

Estimated Total Annual Burden Hours: 53,783,747.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 24, 2021.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2021–06436 Filed 3–26–21; 8:45 am]

BILLING CODE 4830–01–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board Subcommittee Meeting

TIME AND DATE: April 1, 2021, from 2:30 p.m. to 3:30 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: 921 4866 7883, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/j/92148667883.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance 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 July 23, 2020 Meeting—Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the July 23, 2020 Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Update From UCR Banking Partners—Subcommittee Chair

The Subcommittee Chair will call for an update from the UCR Plan's banking partners at Truist Bank and the Bank of North Dakota. The Subcommittee will have the opportunity to hear information on the direction of interest rates and to ask questions.

VI. Funding the Directors and Officers Liability Insurance Reserve—Subcommittee Chair and Depository Manager

For Discussion and Possible Subcommittee Action

The Subcommittee Chair and the Depository Manager will present funding options for the Directors and Officers Liability Insurance Reserve. The Subcommittee may take action to make a recommendation to the Board on a way to fund this reserve.

VII. Funding the Special or Capital Projects Reserve—Subcommittee Chair and Depository Manager

For Discussion and Possible Subcommittee Action

The Subcommittee Chair and the Depository Manager will present funding options for the Special or Capital Projects Reserve. The Subcommittee may take action to make a recommendation to the Board on a way to fund this reserve.

VIII. Maturing of Certificate of Deposit—UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Depository Manager will provide an update on the certificate of deposit, which is maturing in April. The Subcommittee may take action to make a recommendation to the Board for reinvesting the proceeds.

IX. Final Distributions to States for the 2021 Registration Year—UCR Depository Manager

The Depository Manager will discuss the plan for completing the final distributions to states for 2021, which are expected to be made in April. After the distribution, all participating states will have met their full revenue entitlements for the 2021 registration year.

X. Other Business—Subcommittee Chair

The Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

XI. 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 24, 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. 2021–06491 Filed 3–25–21; 11:15 am]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Rural Health Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Veterans' Rural Health Advisory Committee will hold a virtual meeting Wednesday, April 21, 2021, through Friday, April 23, 2021. The meeting will be accessible through the zoom link *https://zoom.us/j/91358888920* and phone number is 1–646–558–8656, Participant Code #91358888920. The meeting will begin at 11:00 a.m. EST and end at 2:30 p.m. EST each day. The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of VA on rural health care issues affecting Veterans. The Committee examines programs and policies that impact the delivery of VA rural health care to Veterans and discusses ways to improve and enhance VA access to rural health care services for Veterans.

The agenda will include updates from Department leadership; the Executive Director, VA Office of Rural Health; and the Committee Chair; as well as presentations by subject matter experts on general rural health care access.

Public comments will be received at 3:00 p.m. on April 23, 2021. Interested parties should contact Ms. Judy Bowie, via email at *VRHAC@va.gov,* or by mail at 810 Vermont Avenue NW (12POP7), Washington, DC 20420. Individuals wishing to speak are invited to submit a 1–2-page summary of their comment for inclusion in the official meeting record. Any member of the public seeking additional information should contact Ms. Bowie at the phone number or email address noted above.

Dated: March 23, 2021.

LaTonya L. Small,

Federal Advisory Committee Management Office.

[FR Doc. 2021–06350 Filed 3–26–21; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 86 Monday,
No. 58 March 29, 2021

Part II

Department of Energy

10 CFR Parts 429 and 430
Energy Conservation Program: Test Procedure for Room Air Conditioners; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2017–BT–TP–0012]

RIN 1904–AD47

Energy Conservation Program: Test Procedure for Room Air Conditioners

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

ACTION: Final rule.

SUMMARY: On June 11, 2020, the U.S. Department of Energy (''DOE'') issued a notice of proposed rulemaking (''NOPR'') to amend the test procedure for room air conditioners (''room ACs''). That proposed rulemaking serves as the basis for the final rule. Specifically, this final rule adopts the following updates to the test procedure for room ACs at appendix F: Incorporate by reference current versions of applicable industry standards; establish test provisions to measure energy use of variable-speed room ACs during a representative average use cycle; update definitions to define key terms and support provisions for testing variable-speed room ACs; and incorporate specifications and minor corrections to improve the test procedure repeatability, reproducibility, and overall readability. This final rule does not modify the test procedures for single-speed room ACs and does not affect the measured energy use for these models. The provisions established to measure energy use of variable-speed room ACs will improve the representativeness of the measured energy use of these models.

DATES: *Effective date:* The effective date of this rule is April 28, 2021.

Compliance date: The final rule changes will be mandatory for product testing starting September 27, 2021.

Incorporation by reference: The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on April 28, 2021. The incorporation by reference of certain other publications listed in this rulemaking were approved by the Director of the Federal Register on March 7, 2012, and July 31, 2015.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2017-BT-TP-0012.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–1777. Email: *Sarah.Butler@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE maintains previously approved incorporation by references and incorporates by reference the following industry standards into title 10, Code of Federal Regulations (''CFR''), part 430:

Association of Home Appliance Manufacturers (''AHAM'') RAC–1–2020, (''AHAM RAC–1–2020''), ''Room Air Conditioners;''

American National Standards Institute (''ANSI'')/American Society of Heating, Refrigerating, and Air-Conditioning Engineers (''ASHRAE'') Standard 16–2016, (''ANSI/ASHRAE Standard 16–2016''), ''Method of Testing for Rating Room Air Conditioners, Packaged Terminal Air Conditioners, and Packaged Terminal Heat Pumps for Cooling and Heating Capacity;'' ANSI approved October 31, 2016.

ANSI/ASHRAE Standard 41.1–2013, (''ANSI/ASHRAE Standard 41.1''), ''Standard Method for Temperature Measurement;'' ANSI approved January 30, 2013.

ANSI/ASHRAE Standard 41.2–1987 (RA 1992), (''ANSI/ASHRAE Standard 41.2–1987 (RA 1992)''), ''Standard Methods for Laboratory Airflow Measurement;'' ANSI reaffirmed April 20, 1992.

ANSI/ASHRAE Standard 41.3–2014, (''ANSI/ASHRAE Standard 41.3–2014''), ''Standard Methods for Pressure Measurement;'' ANSI approved July 3, 2014.

ANSI/ASHRAE Standard 41.6–2014, (''ANSI/ASHRAE Standard 41.6–2014''), ''Standard Method for Humidity Measurement;'' ANSI approved July 3, 2014.

ANSI/ASHRAE Standard 41.11–2014, (''ANSI/ASHRAE Standard 41.11–2014''), ''Standard Methods for Power Measurement;'' ANSI approved July 3, 2014.

International Electrotechnical Commission (''IEC'') Standard 62301, (''IEC Standard 62301 Second Edition''), ''Household electrical appliances—Measurement of standby power, (Edition 2.0, 2011–01)''.

Copies of AHAM RAC–1–2020 can be obtained from the Association of Home Appliance Manufacturers at *https://www.aham.org/ht/d/Store/.* Copies of ANSI/ASHRAE Standard 16–2016, ANSI/ASHRAE Standard 41.1–2013, ANSI/ASHRAE Standard 41.2–1987, ANSI/ASHRAE Standard 41.3–2014, ANSI/ASHRAE Standard 41.6–2014, and ANSI/ASHRAE Standard 41.11–2014 can be obtained from the American National Standards Institute at *https://webstore.ansi.org/.* Copies of IEC Standard 62301 can be obtained from *http://webstore.iec.ch.*

See section IV.N of this document for additional information on these standards.

Table of Contents

I. Authority and Background

Room ACs are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(2)) DOE's energy conservation standards and test procedure for room ACs are currently prescribed at 10 CFR 430.32(b) and 10 CFR 430.23(f), respectively. The following sections discuss DOE's authority to establish test procedures for room ACs and relevant background information regarding DOE's consideration of test procedures for this product.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include room ACs, the subject of this document. (42 U.S.C. 6292(a)(2))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

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

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including room ACs, to determine whether amended test procedures would more accurately or fully comply with the requirements of 42 U.S.C. 6293(b)(3). (42 U.S.C. 6293(b)(1)(A)) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this final rule in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A))

In addition, EPCA requires that DOE amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor, unless the current test procedure already incorporates the standby mode and off mode energy consumption, or if such integration is technically infeasible. (42 U.S.C. 6295(gg)(2)(A)) If an integrated test procedure is technically infeasible, DOE must prescribe separate standby mode and off mode energy use test procedures for the covered product, if a separate test is technically feasible. (*Id.*) Any such amendment must consider the most current versions of the International Electrotechnical Commission (''IEC'') Standard 62301 [3] and IEC Standard 62087 [4] as applicable. (42 U.S.C. 6295(gg)(2)(A))

B. Background

DOE's existing test procedure for room ACs appears at Title 10 of the CFR part 430, subpart B, appendix F (''Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners'' (''appendix F'')), and the room AC performance metric calculations are codified at 10 CFR 430.23(f). DOE most recently amended the test procedure for room ACs in a final rule published on January 6, 2011, (hereafter the ''January 2011 Final Rule''), which added a test procedure to measure standby mode and off mode

[1] All references to EPCA in this document refer to the statute as amended through Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

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

[3] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

[4] IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0, 2011–04).

power and to introduce a new combined efficiency metric, Combined Energy Efficiency Ratio (''CEER''), that accounts for energy consumption in active mode, standby mode, and off mode. 76 FR 971.

The previous room AC test procedure incorporates by reference three industry test methods: (1) American National Standards Institute (''ANSI'')/ Association of Home Appliance Manufacturers (''AHAM'') RAC–1–2008, ''Room Air Conditioners'' (''ANSI/ AHAM RAC–1–2008''),[5] (2) ANSI/ American Society of Heating, Refrigerating, and Air-Conditioning Engineers (''ASHRAE'') Standard 16–1983 (RA 2009), ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners'' (''ANSI/ASHRAE Standard 16–2009''),[6] and (3) IEC Standard 62301, ''Household electrical appliances—Measurement of standby power (first edition June 2005)'' (''IEC Standard 62301 First Edition'').[7]

On May 8, 2019, DOE published a Decision and Order, granting a waiver for certain room AC models with variable-speed capabilities in response to a petition from LG Electronic USA, Inc. (''LG''). 84 FR 20111 (''LG Waiver''). As required under the waiver, the specified LG variable-speed room ACs must be tested at four different outdoor temperatures instead of a single outdoor temperature, with the unit compressor speed fixed at each temperature. This approach for the alternate test procedure was derived from the current DOE test procedure for central air conditioners (10 CFR part 430, subpart B, appendix M (''appendix M'')). The LG Waiver provides definitions for each fixed compressor speed, adjusts the annual energy consumption and operating cost calculations that provide the basis for the information presented to consumers on the EnergyGuide Label, and requires that compressor speeds be set in accordance with instructions submitted to DOE by LG on April 2, 2019.[8] 84 FR 20111, 20118–20121.

On May 26, 2020, DOE published a Decision and Order, granting a waiver to GD Midea Air Conditioning Equipment Co. LTD. (''Midea'') for six variable-speed basic models with the condition that Midea must test and rate these models according to an alternate test procedure that is substantively consistent with that prescribed by in the LG Waiver, and report product-specific information that reflects the alternate test procedure. 85 FR 31481 (''Midea Waiver'').

On June 11, 2020, DOE published a notice of proposed rulemaking (''June 2020 NOPR'') proposing amendments to the test procedures for room ACs to: (1) Update to the latest versions of industry test methods that are incorporated by reference; (2) adopt new testing provisions for variable-speed room ACs that reflect the relative efficiency gains at reduced cooling loads; (3) adopt new definitions consistent with these two proposed amendments; and (4) provide specifications and minor corrections to improve the test procedure repeatability, reproducibility, and overall readability. 85 FR 35700.

DOE received comments in response to the June 2020 NOPR from the interested parties listed in Table II.1.

TABLE II.1—JUNE 2020 NOPR WRITTEN COMMENTS

Commenter(s)	Reference in this NOPR	Commenter type
Association of Home Appliance Manufacturers	AHAM	Trade Association.
California Investor-Owned Utilities	California IOUs	Utility.
Appliance Standards Awareness Project (''ASAP''), American Council for an Energy-Efficient Economy (''ACEEE''), Natural Resources Defense Council (''NRDC'').	Joint Commenters	Efficiency Organizations.
Northwest Energy Efficiency Alliance	NEAA	Efficiency Organization.
Keith Rice	Rice	Consultant.
GE Appliances, a Haier Company	GEA	Manufacturer.

Subsequent to the publication of the June 2020 NOPR, on September 23, 2020, DOE granted GE Appliances, a Haier Company (''GEA'') an interim waiver from the room AC test procedure for the 18 basic models listed in GEA's petition, using an alternate test procedure consistent with that granted to Midea in the Midea Waiver. 85 FR 59770. (''GEA Interim Waiver'')

Additionally, on February 14, 2020, DOE published its updated Process Rule to improve the internal framework for establishing new energy efficiency regulations, with the goal of increasing transparency, accountability, and certainty for stakeholders. 85 FR 8626. As required under the updated Process Rule, DOE will adopt industry test standards as DOE test procedures for covered products and equipment, unless such methodology would be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use (as specified in EPCA) or estimated operating costs of that equipment during a representative average use cycle. Section 8(c) of 10 CFR part 430 subpart C appendix A. *See also,* 85 FR 8626, 8708.

II. Synopsis of the Final Rule

In this final rule, DOE amends the existing test procedure for room ACs to: (1) Incorporate by reference current versions of the applicable industry standards; (2) adopt test provisions for variable-speed room ACs that reflect energy efficiency during a representative average use cycle; (3) update definitions to define key terms and support the adopted provisions for testing variable-speed room ACs; and (4) update specifications and implement minor corrections to improve the test procedure repeatability, reproducibility, and overall readability.

DOE has determined that the amendments will both provide efficiency measurements more representative of the energy efficiency of variable-speed room ACs and will not alter the measured efficiency of single-speed room ACs, which constitute the large majority of units on the market. DOE has determined that the amended test procedure will not be unduly burdensome to conduct. DOE's actions are summarized in Table II.2 and addressed in detail in section III of this document.

[5] Copies can be purchased from *http://webstore.ansi.org.*

[6] Copies can be purchased from *http://www.techstreet.com.*

[7] Copies can be purchased from *http://webstore.iec.ch.*

[8] While the instructions provided by LG on April 2, 2019 are listed in the docket for this rulemaking, they were marked as confidential and were treated accordingly.

TABLE II.2—SUMMARY OF CHANGES IN THE AMENDED TEST PROCEDURE

Previous DOE test procedure	Amended test procedure	Attribution
References industry standards—	Updates references to applicable sections of:	Industry test procedure updates.
• ANSI/AHAM RAC–1–2008,	• AHAM RAC–1–2020,	
• ANSI/ASHRAE Standard 16–2009, and	• ANSI/ASHRAE Standard 16–2016 (including relevant cross-referenced industry standards), and	
• IEC Standard 62301 First Edition	• IEC Standard 62301 Second Edition.	
Testing, calculation of CEER metric, and certification for all room ACs based on single temperature rating condition.	Relevant definitions, testing, calculation of CEER metric, and certification for variable-speed room ACs based on additional reduced outdoor temperature test conditions.	In response to test procedure waivers.
Definitions—		
—Definition of ''room air conditioner'' does not explicitly include function of providing cool conditioned air to an enclosed space, and references ''prime,'' an undefined term, to describe the source of refrigeration.	—Adds the word ''cooled'' to describe the conditioned air a room AC provides and the phrase ''notwithstanding ASHRAE 16 and RAC–1 (incorporated by reference; see § 430.3)'' to reiterate that the DOE definition takes precedence over conflicting language in relevant industry standards, in the definition of ''room air conditioner'' and removes ''prime'' from the definition.	Added by DOE (clarification).
—''Cooling mode,'' ''cooling capacity,'' ''combined energy efficiency ratio,'' are undefined terms.	—Adds definition for ''cooling mode,'' ''cooling capacity,'' and ''combined energy efficiency ratio.''	
Appendix F does not explicitly identify the scope of the test procedure.	Creates new section indicating the appendix applies to the energy performance of room ACs.	Added by DOE (specifies the applicability of the test procedure).
Provides that test unit be installed in a manner similar to consumer installation.	—References ANSI/ASHRAE Standard 16–2016, specifying that the perimeter of louvered room ACs be sealed to the separating partition, consistent with common testing practice.	Industry test procedure update and added by DOE (additional installation specifications).
	—Specifies that non-louvered room ACs be installed inside a compatible wall sleeve, with the manufacturer-provided installation materials.	
Calculations for average annual energy consumption, combined annual energy consumption, energy efficiency ratio (''EER''), and CEER are located in 10 CFR 430.23(f).	—Moves calculations for CEER and annual energy consumption for each operating mode into appendix F. —Removes EER calculation and references entirely, as it is obsolete..	Added by DOE (improve readability).

The effective date for the amended test procedure adopted in this final rule is 30 days after publication of this document in the **Federal Register**. Representations of energy use or energy efficiency must be based on testing in accordance with the amended test procedure beginning 180 days after the publication of this final rule.

III. Discussion

A. Room Air Conditioner Definition

DOE defines a ''room air conditioner'' as a consumer product, other than a packaged terminal air conditioner, which is powered by a single-phase electric current and which is an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and heating. 10 CFR 430.2.

In the June 2020 NOPR, DOE proposed adding the term ''cooled'' to the room AC definition, so that it refers to a system that ''. . . delivers *cooled*, conditioned air to an enclosed space . . .'' (emphasis added). 85 FR 35700, 35705 (Jun. 11, 2020). DOE believed that this revised wording would better represent the key function of a room AC, and would avoid any potential for the room AC definition to cover other indoor air quality systems that could be described as ''conditioning'' the air, but that would not be appropriately included within the scope of coverage of a room AC. *Id.*

Additionally, as described previously, the previous definition of room AC specified that it includes a prime source of refrigeration. *Id.* DOE contended that using the word ''prime'' to describe the source of refrigeration in the previous definition was extraneous and could be construed as referring to a ''primary'' refrigeration system, a distinction that could inadvertently exclude future products that implement a different technology as the primary source of air conditioning, while implementing a refrigeration loop as the ''secondary'' means of cooling or heating. *Id.* Primary and secondary means of conditioning air are not uncommon in certain refrigeration products and chiller systems; in fact, some room ACs with heating functionality implement a resistance heater as a supplemental form of heating to the primary heat pump, for use under extreme temperature conditions. DOE also noted that the recently codified portable AC definition was not limited to products with a prime source of refrigeration. *Id.* For these reasons, DOE proposed to remove the word ''prime'' from the room AC definition.

DOE also proposed to add to the phrase ''notwithstanding ASHRAE 16 and RAC–1 (incorporated by reference; see § 430.3),'' to the room air conditioner definition to reiterate that the DOE definition takes precedence over conflicting language in relevant industry standards. *Id.* Additionally, DOE proposed to reorganize the room AC definition to improve its readability. *Id.* The minor editorial revisions and specifications discussed in this section do not modify the scope of the room AC definition.

In summary, DOE proposed to modify the room AC definition in 10 CFR 430.2 to read as follows:

''*Room air conditioner* means a window-mounted or through-the-wall-mounted encased assembly, other than a 'packaged terminal air conditioner,' that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for ventilating and heating, notwithstanding ASHRAE 16 and RAC–1 (incorporated by reference; see § 430. 3).''

AHAM supported DOE's proposed amendments to the definition of room air conditioner which are consistent, though not verbatim, with the definitions in AHAM RAC–1–2020.

(AHAM, No. 13 at p. 6) [9] DOE did not receive any comment in opposition to the proposed definition. For the reasons provided in the June 2020 NOPR, DOE adopts the definition of ''room air conditioner'' as proposed.

In the June 2020 NOPR, DOE also proposed to further specify the scope of coverage of appendix F by adding a new ''Scope'' section stating that appendix F contains the test requirements used to measure the energy performance of room ACs. In doing so, DOE would explicitly limit the scope of products tested in accordance with appendix F, and appendix F would be consistent with test procedures for other similar covered products in that it would include an introductory statement of scope.

There were no comments pertaining to this addition. DOE adds this new provision to appendix F as proposed.

B. Industry Test Standards

The DOE room AC test procedure in appendix F references the following two industry standards as the basis of the cooling mode test: ANSI/AHAM RAC–1–2008 and ANSI/ASHRAE Standard 16–2009. ANSI/AHAM RAC–1–2008 provides the specific test conditions and associated tolerances, while ANSI/ASHRAE Standard 16–2009 describes the test setup, instrumentation and procedures used in the DOE test procedure. The cooling capacity, efficiency metric, and other indicators are calculated based on the results obtained through the application of these test methods, as described in appendix F and 10 CFR 430.23(f).

Updated versions of AHAM RAC–1 and ANSI/ASHRAE Standard 16 have been released since the publication of the previous DOE test procedure. DOE assessed the updated versions of these standards to determine whether a DOE test procedure that adopted the updated industry standards would produce test results which measure energy efficiency of room ACs during a representative average use cycle without being unduly burdensome to conduct.

1. AHAM RAC–1

The cooling mode test in appendix F is conducted in accordance with the testing conditions, methods, and calculations in Sections 4, 5, 6.1, and 6.5 of ANSI/AHAM RAC–1–2008, as summarized in Table III–1.

TABLE III–1—SUMMARY OF ANSI/AHAM RAC–1–2008 SECTIONS REFERENCED IN APPENDIX F

Section	Description
4	General test requirements, including power supply and test tolerances.
5	Test conditions and requirements for a standard measurement test.
6.1	Determination of cooling capacity in British thermal units per hour (''Btu/h'').
6.5	Determination of electrical input in watts (''W'').

In the June 2020 NOPR, DOE proposed to incorporate by reference ANSI/AHAM RAC–1–2015 but limit the section references in appendix F to cooling mode-specific sections of ANSI/AHAM RAC–1–2015 (by excluding standby mode, off mode, and heating mode sections), and to update the section reference for measuring electrical power input. 85 FR 35700, 35706 (Jun. 11, 2020). ANSI/AHAM RAC–1–2015 introduced new provisions for the measurement of standby mode and off mode power in Section 6.3, as well as the calculations for annual energy consumption and CEER in Sections 6.4 through 6.8. Because those updates do not impact the sections relevant to appendix F, DOE noted in the June 2020 NOPR that it expects that updating the references to ANSI/AHAM RAC–1–2015 in appendix F would not substantively affect test results or test burden. *Id.* ANSI/AHAM RAC–1–2015 added test requirements and conditions for standby mode and off mode, and heating mode in Sections 4 and 5, respectively. Because the DOE test procedure already addresses standby mode and off mode testing but not heating mode, which is now included in ANSI/AHAM RAC–1–2015, and to avoid confusion regarding the appropriate applicability of ANSI/AHAM RAC–1–2015, DOE proposed in the June 2020 NOPR to update the existing references to Sections 4 and 5 of ANSI/AHAM RAC–1–2008 in appendix F with references to only the cooling mode-specific subsections of ANSI/AHAM RAC–1–2015: Sections 4.1, 4.2, 5.2.1.1, and 5.2.4. *Id.*

DOE also noted in the June 2020 NOPR that the provisions in ANSI/AHAM RAC–1–2015 for measuring electrical power input appear in Section 6.2, rather than Section 6.5 of ANSI/AHAM RAC–1–2008. To reflect this change in section numbers, DOE proposed to update appendix F to reference Section 6.2 of ANSI/AHAM RAC–1–2015 to determine the electrical power input in cooling mode. *Id.*

Since the June 2020 NOPR, AHAM RAC–1 has been updated and the current standard was released in September 2020 as AHAM RAC–1–2020, ''Room Air Conditioners'' (AHAM RAC–1–2020). Unlike ANSI/AHAM RAC–1–2015, AHAM RAC–1–2020 includes a test method for products with variable-speed compressor units; allows for voluntary testing inside a psychometric chamber; removes the tests for uncommon water-cooled units as well as the sweat, drip, and heating tests; and updates references to the most recent versions of other industry standards—AHAM RAC–1–2020 references ANSI/ASHRAE Standard 16–2016, for reasons outlined below, and IEC Standard 62301 Second Edition for standby power measurement.[10]

AHAM and GEA urged DOE to adopt AHAM RAC–1–2020. AHAM commented that this test procedure is identical to the existing test procedure waivers and the test procedure proposed in the June 2020 NOPR. AHAM further commented that uncommon practices such as water-cooled unit testing have been eliminated and tests irrelevant to energy and capacity measurement such as the sweat, drip, and heating tests have been removed from AHAM RAC–1–2015 such that the AHAM RAC–1–2020 procedure is now consistent with the scope of the DOE test procedure. AHAM stated that AHAM RAC–1–2020 does allow for voluntary testing in a psychrometric (air-enthalpy) chamber, which DOE declined to propose for adoption in the June 2020 NOPR. AHAM and GEA further stated that adopting AHAM RAC–1–2020 as the DOE test procedure would not change the substance of DOE's proposed rule unless DOE were to consider allowing voluntary testing in a psychrometric chamber. AHAM asserted that AHAM RAC–1–2020 is not unduly burdensome to conduct and produces results that reflect the energy efficiency of room ACs during a representative average use cycle. (AHAM, Public Meeting Transcript, No. 12 at pp. 9–10, 21; AHAM, No. 13 at p. 2; GEA, No. 18 at p. 1) [11] AHAM further noted that, at the

[9] A notation in the form ''AHAM, No. 13 at p. 6'' identifies a written comment: (1) Made by the Association of Home Appliance Manufacturers; (2) recorded in document number 13 that is filed in the docket of this test procedure rulemaking (Docket No. EERE–2017–BT–TP–0012–0008) and available for review at *http://www.regulations.gov;* and (3) which appears on page 6 of document number 13.

[10] Copies of AHAM RAC–1–2020 can be purchased from the Association of Home Appliance Manufacturers at 1111 19th Street NW, Suite 402, Washington, DC 20036, 202–872–5955, or by going to *http://www.aham.org.*

[11] A notation in the form ''AHAM, Public Meeting Transcript, No. 12 at pp. 9–10, 21'' identifies an oral comment that DOE received on August 6, 2020 during the public meeting, and was recorded in the public meeting transcript in the docket for this test procedure rulemaking (Docket No. EERE–2017–BT–TP–0012–0012). This particular notation refers to a comment (1) made by AHAM during the public

time of the June 2020 NOPR comment period, AHAM RAC–1–2020 had not yet been published. However, in an additional comment submitted on December 18, 2020, AHAM confirmed publication of AHAM RAC–1–2020 and that it is consistent with what AHAM stated it would be in their previous comment. (AHAM, No. 20 at pp. 1–2)

Consistent with the comments received, DOE has determined that AHAM RAC–1–2020 generally provides results that are representative of an average use cycle of room ACs, including room ACs that are variable-speed, and is not unduly burdensome to conduct. Therefore, DOE is adopting AHAM RAC–1–2020 as a referenced standard for the DOE room AC test procedure in appendix F, with modifications that DOE has determined are necessary to improve the representativeness and repeatability of the test procedure. The modifications are discussed in further detail in the sections that follow.

2. ANSI/ASHRAE Standard 16

Appendix F previously referenced the 1983 version of ANSI/ASHRAE Standard 16, which was reaffirmed in 2009, for cooling mode temperature conditions, methods, and calculations.

In the June 2020 NOPR, DOE proposed to reference sections of ANSI/ASHRAE Standard 16–2016 in appendix F. 85 FR 35700, 35707 (Jun. 11, 2020). In the June 2020 NOPR, DOE stated that ANSI/ASHRAE Standard 16–2016 made a number of updates to the industry standard, including an air-enthalpy test approach as an alternative to the calorimeter approach, heating mode testing, additional clarification on placement of air samplers and thermocouples, stability requirement definitions, and new figures for additional tests and to also improve previous figures. 85 FR 35700, 35706 (Jun. 11, 2020). DOE initially determined, however, that the general cooling mode methodology remains unchanged. *Id.* The addition of the air-enthalpy approach provides more flexibility in conducting the tests, and the heating mode test is based on the tests previously included in ANSI/ASHRAE Standard 58–1986 ''Method of Testing for Rating Room Air Conditioner and Packaged Terminal Air Conditioner Heating Capacity.''

In the June 2020 NOPR DOE stated that the general calorimeter test methodology is unchanged in ANSI/ASHRAE Standard 16–2016 and tentatively determined that the additional detail and clarifying updates would improve the repeatability and reproducibility of test results. *Id.* ANSI/ASHRAE Standard 16–2016 provides best practices for thermocouple and air sampler placement, recognizing that the unique characteristics of each test chamber will result in particular air flow and temperature gradients in the chamber, influenced by the interaction of the reconditioning equipment and the test unit. These practices address the distances for placing the air sampler from the unit discharge points and thermocouple spacing on the air sampling device. Figure 1 and Figure 2 of ANSI/ASHRAE Standard 16 are updated with additional details and references. Section 5 of ANSI/ASHRAE Standard 16–2016 includes additional provisions regarding instrument calibration and accuracy. ANSI/ASHRAE Standard 16–2016 requires measuring data at more frequent intervals to minimize the sensitivity of the final average value to variations in individual data points, resulting in a more repeatable and reproducible test procedure. Based on DOE's experience with testing at various test laboratories, requiring more frequent data measurements will have minimal impact on testing burden because most testing laboratories are already using a data acquisition system that has the capability to take more frequent measurements.

In urging DOE to incorporate AHAM RAC–1–2020, AHAM and GEA supported the incorporation of relevant sections of the 2016 version of ANSI/ASHRAE Standard 16, ANSI/ASHRAE Standard 16–2016. In AHAM RAC–1–2020, AHAM adopted the most current industry standards, including ANSI/ASHRAE Standard 16–2016. (AHAM, Public Meeting Transcript, No. 12 at pp. 9–10; AHAM, No. 13 at p. 2; GEA, No. 18 at p. 1)

For these reasons provided in the June 2020 NOPR and in this document, and in consideration of the comments received in support of ANSI/ASHRAE Standard 16–2016, DOE is updating appendix F to reference ANSI/ASHRAE Standard 16–2016.

ANSI/ASHRAE Standard 16–2016 also updates requirements for the accuracy of instruments. The 2009 reaffirmation of ANSI/ASHRAE Standard 16 requires, in Section 5.4.2, accuracy to ±0.5 percent of the quantity measured for instruments used for measuring all electrical inputs to the calorimeter compartments. ANSI/ASHRAE Standard 16–2016, in Section 5.6.2, no longer broadly includes any inputs and instead includes more specific language (*e.g.,* it explicitly mentions the power input to the test unit, heaters, and other cooling load contributors). To ensure that the electrical input for all key equipment is properly measured, in the June 2020 NOPR, DOE proposed to maintain the accuracy requirement of ±0.5 percent of the quantity measured for instruments used for measuring all electrical inputs, to the test unit, all reconditioning equipment, and any other equipment that operates within the calorimeter walls. 85 FR 35700, 35707 (Jun. 11, 2020).

No comments were received pertaining to this reference. While DOE is incorporating by reference ANSI/ASHRAE Standard 16–2016 generally, DOE maintains that the instrument accuracy of ±0.5 percent of the quantity measured is applicable to all devices measuring electrical input for the room AC test procedure, and not just those explicitly mentioned in ANSI/ASHRAE Standard 16–2016.

3. ANSI/ASHRAE Standards 41.1, 41.2, 41.3, 41.6, and 41.11

ANSI/ASHRAE Standard 16–2016 references industry standards in specifying certain test conditions and measurement procedures. In the June 2020 NOPR, DOE proposed to incorporate those industry standards specified in the relevant sections of ANSI/ASHRAE Standard 16–2016. Specifically, DOE proposed to incorporate by reference: ANSI/ASHRAE Standard 41.1–2013, ''Standard Method for Temperature Measurement, as referenced in ANSI/ASHRAE Standard 16–2016 Section 5.1.1 for all temperature measurements except for dew-point temperature; ANSI/ASHRAE Standard 41.2–1987 (RA 1992), ''Standard Methods for Laboratory Airflow Measurement,'' as referenced in Section 5.5.1 of ANSI/ASHRAE Standard 16–2016 for airflow measurements; ANSI/ASHRAE Standard 41.3–2014, ''Standard Methods for Pressure Measurement,'' as referenced in Section 5.2.5 of ANSI/ASHRAE Standard 16–2016 for the prescribed use of pressure measurement instruments; ANSI/ASHRAE Standard 41.6–2014, ''Standard Method for Humidity Measurement,'' as referenced in Section 5.1.2 of ANSI/ASHRAE Standard 16–2016 for measuring dew-point temperatures using hygrometers; and ANSI/ASHRAE Standard 41.11–2014, ''Standard Methods for Power Measurement,'' as referenced in Section 5.6.4 of ANSI/ASHRAE Standard 16–2016 regarding the use and application of electrical instruments during tests.

meeting; (2) recorded in document number 12, which is the public meeting transcript that is filed in the docket of this test procedure rulemaking; and (3) which appears on pages 9 through 10 and 21 of document number 12.

Incorporating these standards would clarify which versions of the standards are required to conduct tests according to the procedure in appendix F. 85 FR 35700, 35707 (Jun. 11, 2020).

DOE received no comments on the proposal to incorporate ANSI/ASHRAE Standard 41.1–2013, ANSI/ASHRAE Standard 41.2–1987 (RA 1992), ANSI/ASHRAE Standard 41.3–2014, ANSI/ASHRAE Standard 41.6–2014, and ANSI/ASHRAE Standard 41.11–2014 in appendix F. DOE is adopting its proposal to incorporate those industry standards appendix F.

C. Variable-Speed Room Air Conditioner Test Procedure

Historically, room ACs have been designed using a single-speed compressor, which operates at full cooling capacity while the compressor is on. To match the cooling load of the space, which in most cases is less than the full cooling capacity of the compressor, a single-speed compressor cycles on and off. This cycling behavior generally introduces inefficiencies in refrigeration system performance. Variable-speed room ACs became available on the U.S. market in 2018. These models employ an inverter compressor that can reduce its speed to provide continuous cooling that matches the observed cooling load. Accordingly, a variable-speed compressor runs continuously, adjusting its speed up or down as required. In addition to reducing or eliminating cycling inefficiencies, in a variable-speed unit operating at reduced capacity the evaporator and condenser heat exchange effectiveness are improved, since they are handling reduced loads, thereby improving compressor efficiency.

The previous DOE test procedure measured the performance of a room AC while operating under a full cooling load; *i.e.,* the compressor is operated continuously in its ''on'' state. As a result, the DOE test does not capture any inefficiencies due to compressor cycling. Consequently, the efficiency gains that can be achieved by variable-speed room ACs due to the avoidance of cycling losses were not measured by the previous test procedure.

In the June 2020 NOPR, DOE presented the results of its investigative testing to quantify the impacts of cycling losses and the relative efficiency benefits of a variable-speed compressor. 85 FR 35700, 35707–35708 (Jun. 11, 2020). DOE compared the performance of two variable-speed room ACs from two different manufacturers, with single-speed room AC of similar capacity from the same manufacturers, under reduced cooling load conditions.[12] DOE installed each room AC in a calorimeter test chamber, set the unit thermostat to 80 degrees Fahrenheit (°F), and applied a range of fixed cooling loads to the indoor chamber.[13] [14] The calorimeter chamber conditioning system was configured to apply a fixed cooling load rather than maintaining constant indoor chamber temperature, thereby allowing the test unit to maintain the target indoor chamber temperature by adjusting its cooling operation in response to the changing temperature of the indoor chamber.[15] Figures III–1 and III–2 show the efficiency gains and losses for the range of reduced cooling loads tested for each unit, relative to the performance of each unit as tested using appendix F.[16]

[12] The first room AC was tested under the 95 °F outdoor test condition (Figure III–1), the second under the 82 °F outdoor test condition (Figure III–2), and the change in EER and load from full-load used for each test was determined based on an appendix F test with the noted outdoor test condition.

[13] A cooling load is ''applied'' by adjusting and fixing the rate of heat added to the indoor test chamber to a level at or below that of the nominal cooling capacity of the test unit.

[14] This approach aims to represent a consumer installation in which the amount of heat added to a room may be less than the rated cooling capacity of the room AC (*e.g.,* electronics or lighting turned off, people or pets leaving the room, and external factors such as heat transfer through walls and windows reducing with outdoor temperature).

[15] DOE notes that this test chamber configuration differs from the configuration used in appendix F. Appendix F uses a constant-temperature configuration, in which the indoor chamber temperature is held fixed (*i.e.,* the indoor temperature does not drop while the room AC is operational).

[16] For single-speed room ACs under appendix F, the thermostat is typically set as low as possible to ensure that the unit provides maximum cooling during the cooling mode test period.

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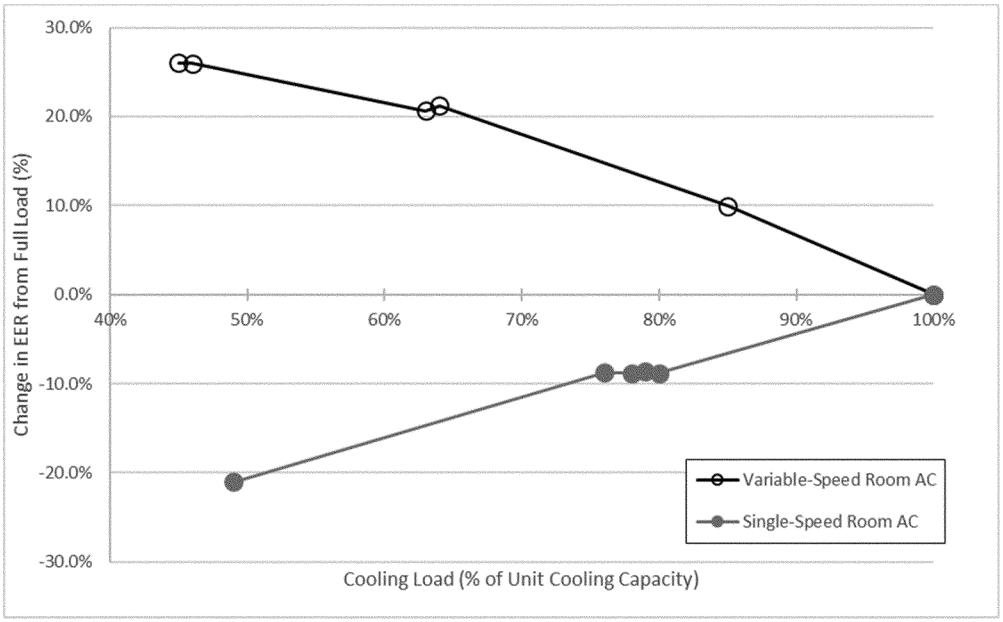

Figure III-1 Change in EER for Reduced Cooling Loads at 95 °F Outdoor Dry-Bulb Temperature, Unit 1

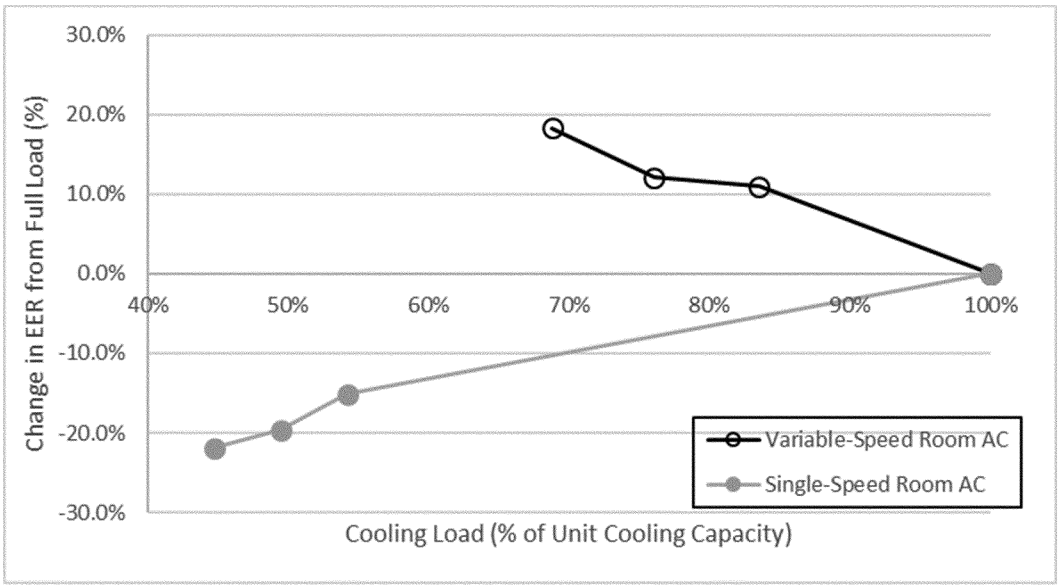

Figure III-2 Change in EER for Reduced Cooling Loads at 82 °F Outdoor Dry-Bulb Temperature, Unit 2

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In Figures III–1 and III–2, the distance of each data point from the x-axis represents the change in efficiency relative to the full-load efficiency for each unit at the outdoor test condition used.[12] The single-speed room AC efficiency decreases in correlation with a reduction in cooling load, reflecting cycling losses that become relatively larger as the cooling load decreases. In contrast, the efficiency of the variable-speed room AC increases as the cooling load decreases, reflecting the lack of cycling losses and inherent improvements in system efficiency associated with lower-capacity operation. As explained in the June 2020 NOPR, these results demonstrate that the previous test procedure does not account for significant efficiency gains that variable-speed room ACs can achieve under reduced temperature conditions. 85 FR 35700, 35708 (Jun. 11, 2020).

1. Methodology

In the June 2020 NOPR, DOE proposed a test method to measure the efficiency gains for variable-speed room ACs that are not captured by the previous DOE test procedure. 85 FR 35700, 35708–35709 (Jun. 11, 2020). DOE based the proposed method on the alternate test procedure required under the LG Waiver and the Midea Waiver, (collectively, ''the waivers'') for specified basic models of variable-speed room ACs. 84 FR 20111 (May 8, 2019) and 85 FR 31481 (May 26, 2020). The alternate test procedure proposed in the NOPR, which is substantively consistent with the waivers, is generally consistent with the approach in AHAM RAC–1–2020, as discussed in section III.B.1 of this document. As discussed in this section below, DOE is adopting the AHAM RAC–1–2020 test procedure in this final rule, with some modifications for the purposes of improved representativeness and repeatability, which provides a methodology for obtaining a reported CEER value by adjusting the intermediate CEER value as tested at the 95 °F test condition according to appendix F using a ''performance adjustment factor'' (''PAF'').

Conceptually, the approach for variable-speed room ACs adopted in this final rule involves measuring performance over a range of four test conditions, applying user settings to achieve the full compressor speed at two test conditions and manufacturer-provided instructions to achieve a reduced fixed compressor speed at the other two test conditions, which collectively comprise representative use. These temperature conditions were derived from the DOE test procedure for central air conditioners with variable-speed compressors and include three reduced-temperature test conditions—under which variable-speed room ACs perform more efficiently than single-speed room ACs—and the test condition specified in the previous test procedure.[17] The single-speed room AC test procedure, however, does not factor in the reduced-temperature test conditions under which single-speed units also will perform more efficiently (although not as well as variable-speed room ACs). As a result, comparing variable-speed performance at all test conditions against a single-speed unit at the highest-temperature test condition would not yield a fair comparison. The PAF represents the average relative benefit of variable-speed over single-speed across the whole range of test conditions. It is applied to the measured variable-speed room AC performance only at the high-temperature test condition to provide a comparison to the single-speed CEER metric based on representative use.

The steps for determining a variable-speed room AC's PAF are summarized as follows:

- Measure the capacity and energy consumption of the sample unit at the single test condition used for single-speed room ACs (95 °F dry-bulb outdoor temperature), with the compressor speed at the maximum (full) speed, achieved using the user settings (*i.e.,* setpoint) selected in accordance with the appendix F test.
- Measure the capacity and energy consumption of the sample unit at three additional test conditions (92 °F, 87 °F, and 82 °F dry-bulb outdoor temperature),[18] with compressor speed at full using the user settings in accordance with appendix F, and fixed at intermediate and minimum (low) speed, respectively.[19] Using theoretically determined adjustment factors,[20] calculate the equivalent performance of a single-speed room AC with the same cooling capacity and electrical power input at the 95 °F dry-bulb outdoor temperature, with no cycling losses (*i.e.,* a ''theoretical comparable single-speed'' room AC) for each of the three test conditions.
- Calculate the annual energy consumption in cooling mode at each of the four cooling mode test conditions for a variable-speed room AC, as well as for a theoretical comparable single-speed room AC with no cycling losses. This theoretical single-speed room AC would perform the same as the variable-speed test unit at the 95 °F test condition but perform differently at the other test conditions.
- Calculate an individual CEER value at each of the four cooling mode test conditions for the variable-speed room AC, as well as for a theoretical comparable single-speed room AC with no cycling losses.
- Using cycling loss factors derived from an industry test procedure and DOE test data,[21] calculate an adjusted CEER value at each of the four cooling mode test conditions for a theoretical comparable single-speed room AC, which includes cycling losses.
- Using weighting factors [22] representing the fraction of time spent and cooling load expected at each test condition in representative real-world operation, calculate a weighted-average CEER value (reflecting the weighted-average performance across the four test conditions) for the variable-speed room AC, as well as for a theoretical comparable single-speed room AC.
- Using these weighted-average CEER values for the variable-speed room AC and a theoretical comparable single-speed room AC, calculate the PAF as the percent improvement of the weighted-average CEER value of the variable-speed room AC compared to a theoretical comparable single-speed room AC.[23] This PAF represents the improvement resulting from the implementation of a variable-speed compressor.

DOE's approach to addressing the performance improvements associated with variable-speed room ACs is generally consistent with the alternate test procedures required in the waivers and with the test procedure updates proposed in the June 2020 NOPR.[24] The following sections of this document describe each aspect of the approach in greater detail.

2. Test Conditions

As discussed previously, variable-speed room ACs provide improved performance at reduced cooling loads by reducing the compressor speed to match the load, thereby improving system efficiency. DOE recognizes that throughout the cooling season, room ACs operate under various outdoor temperature conditions. DOE also asserts that these varying outdoor conditions present a range of reduced cooling loads in the conditioned space, under which a variable-speed room AC would perform more efficiently than a

[17] The central air conditioner test procedure can be found at Title 10 of the CFR part 430, subpart B, appendix M, ''Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners and Heat Pumps.''

[18] The additional reduced-temperature conditions are described further in section III.C.2 of this document.

[19] The fixed compressor speeds are described further in section III.C.3 of this document.

[20] These adjustment factors are described further in section III.C.4 of this document.

[21] The derivation of these cycling loss factors is described in more detail in section III.C.5 of this document.

[22] These ''fractional temperature bin'' weighting factors are described in more detail in section III.C.6 of this document.

[23] The performance adjustment factor is described in more detail in section III.C.7 of this document.

[24] DOE estimates that the CEER value for a variable-speed room AC determined in accordance with the amendments adopted in this final rule would be about 1.6 percent greater than the CEER value determined in accordance with the June 2020 NOPR proposed test approach, which was consistent with the alternate test procedure prescribed in a Decision and Order granting a waiver from the DOE test procedure for room air conditions to LG Electronics (84 FR 2011; May 8, 2019) and in an Interim Waiver granted to GD Midea Air Conditioning Equipment Co. LTD (84 FR 68159; Dec. 13, 2109). 85 FR 35700, 35709.

theoretical comparable single-speed room AC.

To measure this improved performance, in the June 2020 NOPR, DOE proposed a test procedure for variable-speed room ACs that adds three test conditions (92 °F, 87 °F, and 82 °F dry-bulb outdoor temperatures and 72.5 °F, 69 °F, and 65 °F wet-bulb outdoor temperatures, respectively) to the existing 95 °F test condition, consistent with the test conditions in the waivers. 85 FR 35700, 35709 (Jun. 11, 2020). These temperatures represent potential outdoor temperature conditions between the existing 95 °F test condition and the indoor setpoint of 80 °F. These additional test conditions are also consistent with the representative temperatures for bin numbers 6, 5, and 4 in Table 19 of DOE's test procedure for central air conditioners at appendix M. *See id.*

Rice expressed concern that the temperature range of the proposed test points in the NOPR is too narrow, as they are based on only four of the eight cooling-mode outdoor-temperature bins of the 2017 version of Air-Conditioning, Heating and Refrigeration Institute (''AHRI'') Standard 210/240, (''AHRI Standard 210/240''), ''Performance Rating of Unitary Air-conditioning & Air-source Heat Pump Equipment,'' and a wider temperature range for testing is needed. Rice commented that the binned loads in AHRI Standard 210/240 were determined for more typical indoor dry-bulb settings, but the analysis in AHRI Standard 210/240 uses 80 °F dry-bulb and 67 °F wet-bulb indoor ratings data. Rice recommended that a more complete range of temperature bins and their associated cooling load hours from AHRI Standard 210/240 should be considered for the CEER analysis. (Rice, No. 17 at pp. 1–2; *see also* Rice, Preliminary Analysis,[25] No. 25 at p. 2) Rice recommended accounting for the fractional loads and hours of outdoor-temperature bins 67, 72, and 77 °F with a lower temperature test condition with an outdoor dry-bulb temperature of 75 °F be used in place of the 92 °F dry-bulb temperature test condition. Rice asserted that there was not sufficient justification to test at full speed test at 92 °F, as it is close to a full speed test at the 95 °F dry-bulb temperature test condition. Rice recommended that the fractional bin hours of the 92, 97, and 102 °F outdoor-temperature bins should be applied to the 95 °F dry-bulb temperature test condition, which is actually the midpoint temperature of the lower two bins. (Rice, No. 17 at pp. 1–2; *see also* Rice, Preliminary Analysis, No. 25 at p. 2)

DOE recognizes that the test conditions proposed in the June 2020 NOPR do not encompass the full range of bin temperature in Table 16 of ANSI/AHRI Standard 210/240. The temperature bins in Table 16 of ANSI/AHRI Standard 201/240 apply to central air conditioners, which are fixed appliances, installed year-round, built into homes, and operate based on a central thermostat to maintain a relatively constant temperature throughout the conditioned space. Room ACs are instead, often seasonally, installed in a single room; operate based on an internal thermostat when turned on, typically only during the cooling season; and may be readily turned off when the room is not occupied. Consumers are more acutely aware of a room AC's operation than that of a central air conditioner; as they are used to cool a single room, often only when that room is occupied; make more noise; and are visible in the room. For these reasons, consumers are more likely to rely on a room AC at the higher temperatures in the range of bin temperatures in Table 16 of ANSI/AHRI Standard 210/240, as compared to at the lower temperatures in the bin. At the lower temperatures, consumers using room ACs are more likely than consumers with central air conditioners to open a window or operate the unit with only the fan on to circulate indoor air when cooler outdoor air is available to draw in through a ''fresh air'' vent, making the lower temperature bins less representative of room AC operation in cooling mode. DOE also notes that the temperature conditions proposed in the June 2020 NOPR are consistent with the industry-accepted test procedure, AHAM RAC–1–2020.

For the reasons discussed in this section, DOE is adopting the four temperature conditions for variable-speed room ACs proposed in the June 2020 NOPR.

3. Variable-Speed Compressor Operation

The DOE test procedure maintains fixed temperature and humidity conditions in the indoor chamber and requires configuring the test unit settings (*i.e.,* setpoint and fan speed), to achieve maximum cooling capacity. See Section 3.1 of appendix F, as amended, and Section 6.1.1.4 of ANSI/ASHRAE Standard 16–2016. Under these conditions, units under test may operate continuously at their full cooling capacity, even at the reduced outdoor temperature test conditions described in section III.C.2 of this document, without the compressor cycling (for single-speed units) or compressor speed reduction (for variable-speed units) that would be expected under real-world operation. Therefore, in this final rule, DOE establishes additional test procedure adjustments, beyond reduced outdoor temperature test conditions, to fully capture the energy efficiency of variable variable-speed room ACs at reduced cooling loads.

As described previously, in a typical consumer installation, reduced outdoor temperatures would result in reduced indoor cooling loads. A test that would provide constant reduced cooling loads could be considered, but as discussed below in section III.E.1.e of this document, DOE concludes such a test would not be feasible at this time. Instead, in the June 2020 NOPR, DOE proposed adopting a test that requires fixing the variable-speed room AC compressor at particular compressor speeds that would reflect the expected load under each of the four test conditions, as described further in the following sections. 85 FR 35700, 35709 (Jun. 11, 2020).

a. Compressor Speeds

In the June 2020 NOPR, to ensure the compressor speeds are representative of actual speeds at the expected cooling loads at each of the outdoor test conditions, DOE proposed requiring that the compressor speed of a variable-speed room AC be set to full speed at the two highest outdoor temperature test conditions (based on test A_{Full} at 95 °F and test B_{Full} at 92 °F from Table 8 of AHRI Standard 210/240), at intermediate compressor speed at the 87 °F test condition (based on test E_{Int}), and at low compressor speed at the 82 °F test condition (based on test D_{Low}), consistent with the tests and requirements in Table 8 of AHRI Standard 210/240, which specifies representative test conditions and the associated compressor speeds for variable-speed unitary air conditioners. 85 FR 35700, 35709 (Jun. 11, 2020).

The California IOUs questioned the representativeness of testing variable-speed room ACs using fixed-speed testing and referenced statements from the 2019 Appliance Standards and Rulemaking Federal Advisory Committee's Variable Refrigerant Flow Working Group that such testing was not representative of field performance, largely because the control settings used during testing did not match the operational behavior of units outside of

[25] The notation ''Preliminary Analysis'' indicates that the comment is filed in the docket of the Energy Conservation Standards for Room Air Conditioners Preliminary Analysis rulemaking (EERE–2014–BT–STD–0059) and available for review at *http://www.regulations.gov.*

their test mode.[26] The California IOUs also cited research conducted at the Bundesanstalt für Materialforschung und -prüfung (''BAM'') Federal Institute for Material Research and Testing in Germany, in which all but one of the seven residential mini-split air conditioners with variable-speed equipment that were tested consumed significantly higher energy when consumer-adjustable, built-in controls were used relative to fixed controls (*i.e.,* controls that set the compressor speed using a manufacturer-provided remote or code).[27] The California IOUs stated that researchers reported many units reverted to on-off (cycling) operation when the outdoor temperatures were between 77 and 86 °F. The California IOUs encouraged DOE to amend the test procedure to improve representativeness and facilitate product comparison with air conditioners tested under appendix M1 [28] to 10 CFR part 430. The California IOUs further encouraged DOE, in collaboration with industry and energy efficiency advocates, to update the test procedure for room ACs by requiring the measurement of units at the 95 °F test condition under their native controls to see the speeds at which the compressors operate to ensure accurate testing. (California IOUs, Public Meeting Transcript, No. 12 at pp. 30–33; California IOUs, No. 14 at p. 4)

DOE notes that the findings of the 2019 Appliance Standards and Rulemaking Federal Advisory Committee's Variable Refrigerant Flow Working Group applied to variable-refrigerant flow multi-split air conditioners and heat pumps, which have different applications and typical use cases from room ACs and which typically provide cooling to multiple locations within a home. Based on a review of the market, room ACs are typically marketed for temporary seasonal installation [29] for the purpose of cooling a single room,[30] whereas multi-split systems are permanent and may be used as part of a larger whole-home cooling system. For these reasons, the comparability of the room AC test procedure and the test procedure for multi-split air conditioners was not further considered in this final rule.

During investigative testing, two variable-speed room AC models from different manufacturers performed differently under fixed temperature conditions with the user settings (*e.g.,* fan speed, grille position) and thermostat setpoint selected in accordance with the appendix F test (''appendix F setpoint''), relative to the fixed controls, as specified in the waivers and proposed in the June 2020 NOPR. When operating under fixed temperature conditions and the appendix F setpoint (*i.e.,* the setpoint which resulted in the maximum cooling capacity, per the requirement in ASHRAE 16–2016), one unit was 10 percent more efficient than when using fixed controls at the 95 °F test condition as specified in the waivers. The second unit was 11 percent less efficient when operated under fixed temperature conditions and the appendix F setpoint than when using fixed controls. Based on the observed differences in the room AC performance when using the fixed full compressor speed as compared to the fixed temperature conditions and appendix F setpoint, DOE is requiring the use of fixed chamber temperature conditions with a unit setpoint of 75 °F for the ''full speed'' test, as use of this test setup improves representativeness and reproducibility of results. While AHAM RAC–1–2020 requires the use of a fixed full compressor speed set in accordance with manufacturer instructions, as described above, DOE is adopting a revised approach in this final rule to improve representativeness and repeatability. Using a constant temperature test with a thermostat setpoint of 75 °F, in place of the fixed ''full'' compressor speed, will ensure measured performance reflects the expected performance of the unit when using a common setpoint selected in the field at 95 °F and 92 °F outdoor temperatures, where DOE expects these units to be operating at full speed.

However, DOE is not requiring the use of fixed temperature conditions, user settings, and thermostat set at 75 °F for the 87 °F and 82 °F outdoor test condition tests, because those tests represent lower cooling load conditions and would require a load-based test to represent expected unit performance at the associated reduced loads without fixing the compressor speed. As discussed in section III.E.1.d of this document, a load-based test is not feasible at this time. Therefore, the reduced outdoor conditions tests are conducted with fixed compressors speeds that are representative of performance at the expected loads at those reduced conditions. The fixed compressor speeds are defined based on the resulting cooling capacity using fixed temperature condition tests and a unit thermostat setpoint at 75 °F, as discussed in section III.D of this document.

Therefore, in this final rule, DOE is requiring fixed temperature conditions with a unit thermostat setpoint of 75 °F, rather than using manufacturer instructions to fix the compressor speed for variable-speed room ACs at the 95 °F and 92 °F test conditions, while requiring that the compressor speed be fixed to intermediate speed at the 87 °F test condition and low speed at the 82 °F test condition, as discussed and defined in section III.D.1.b of this document and in Sections 2.15 and 2.16 in appendix F, respectively.

b. Instructions for Fixing Compressor Speeds

Setting and maintaining a specific compressor speed for a variable-speed room AC is not typically possible without special control instructions from manufacturers.

In the June 2020 NOPR, DOE proposed to require that manufacturers provide in their certification reports the control settings for each variable-speed room AC basic model required to achieve the fixed compressor speed for each test condition, consistent with the approach in the waivers. 85 FR 35700, 35709 (Jun. 11, 2020). These include the compressor frequency setpoints at each test condition, instructions necessary to maintain the compressor speeds required for each test condition, and the control settings used for the variable components. *Id.* DOE received no comments on the proposal.

Due to the change to require that user settings be implemented to achieve maximum cooling capacity when testing at the 95 °F and 92 °F test conditions, as

[26] All published documents directly related to the 2019 Appliance Standards and Rulemaking Federal Advisory Committee's Variable Refrigerant Flow Working Group test data are available in docket EERE–2018–BT–STD–0003 (*https://regulations.gov/docket/EERE-2018-BT-STD-0003*).

[27] Palkowski, Carsten & Schwarzenberg, Stefan & Simo, Anne. (2019). ''Seasonal cooling performance of air conditioners: The importance of independent test procedures used for MEPS and labels.'' International Journal of Refrigeration. 104. 10.1016/j.ijrefrig.2019.05.021.

[28] Appendix M is the currently applicable DOE test procedure for central air conditioners and heat pumps. Appendix M1 will become the test procedure mandatory for use for central air conditioners and heat pumps on or after January 1, 2023. Appendix M and appendix M1 contain similar test conditions, so DOE's evaluation of comments relative to appendix M applies equally to appendix M1.

[29] Only 14 room AC models on the market have reverse-cycle heating (a heating technology implemented in other electric cooling products intended for year-round operation), compared to the 1,825 total room AC models on the market according to DOE's CCMS database, as accessed February 10, 2021. This indicates that room AC are overwhelmingly used for seasonal cooling.

[30] Room air conditioners are typically purchased by selecting cooling capacity to match the size of a single room to be cooled. See, for example, the ENERGY STAR buying guidance at: *https://www.energystar.gov/products/heating_cooling/air_conditioning_room.*

discussed in section III.C.3.a of this document, DOE is requiring that the manufacturer provide in the certification reports the control settings to achieve the fixed compressor speed at only the 87 °F and 82 °F test conditions, thus minimizing certification burden on manufacturers.

c. Boost Compressor Speed

DOE is aware that a variable-speed room AC's full compressor speed may not be its fastest speed. In particular, the fastest compressor speed may be one that is automatically initiated and used for a brief period of time to rapidly reduce the indoor temperature to within typical range of the setpoint. This compressor speed is referred to as ''Boost Compressor Speed'' in AHRI Standard 210/240 and is defined as a speed faster than full compressor speed, at which the unit will operate to achieve increased capacity.

Manufacturers have described boost compressor speed as used for limited periods of time on occasions where the indoor room temperature is far out of normal operating range of the setpoint. Once the indoor room temperature is within the typical operating range of the setpoint, the room AC returns to the ''Full Compressor Speed,'' as defined in AHRI Standard 210/240. Because of the typical limited duration of boost compressor speed, it would not significantly contribute to annual energy consumption. AHRI Standard 210/240 does not measure boost compressor speed energy use, and in a final rule published on June 8, 2016, DOE declined to include provisions for measuring boost compressor speed energy use in the central air conditioner test procedure. 81 FR 36992, 37029. DOE stated that accurately accounting for boost compressor speed requires more careful consideration of test procedure changes beyond simply allowing the compressor speed to vary for the test conditions required by the previous procedure, and that DOE would consider such revisions in a future rulemaking. *Id.*

Accordingly, DOE did not propose to measure boost compressor speed performance and energy consumption in appendix F in the June 2020 NOPR, because of the minimal expected operating hours in boost compressor mode and the subsequent insignificant impact on annual energy consumption and performance, to harmonize with AHRI Standard 210/240, the industry approach for variable-speed compressor testing, and because DOE has previously opted to forgo including it for other air conditioning products. 85 FR 35700, 35710 (Jun. 11, 2020).

AHAM supported DOE's proposal to forgo measuring boost compressor speed for variable-speed room ACs. AHAM commented that boost compressor speed is used for limited periods of time on occasions where the indoor room temperature is far out of normal operating range of the setpoint. AHAM stated that once the indoor temperature is within the typical operating range of the setpoint, the room AC will return to full compressor speed. AHAM asserted that accounting for boost compressor speed would likely not impact annual energy consumption and performance and, thus, additional test burden would not have a corresponding energy savings or consumer benefit. According to AHAM, EPCA does not require testing of every available mode; EPCA only requires testing of the average consumer use cycle, which boost mode is not according to data available. (AHAM, Public Meeting Transcript, No. 12 at p. 53; AHAM, No. 13 at p. 5)

The Joint Commenters, the California IOUs, NEAA, and Rice commented in favor of capturing boost compressor speed operation in the test procedure. (ASAP, Public Meeting Transcript, No. 12 at p. 12; Joint Commenters, No. 15 at pp. 2–3; California IOUs, Public Meeting Transcript, No. 12 at pp. 23–24; NEAA, Public Meeting Transcript, No. 12 at pp. 42–48, 56; Rice, No. 17 at p. 3) The California IOUs commented that boost mode operation may be a significant portion of how consumers actually use the product. (California IOUs, Public Meeting Transcript, No. 12 at pp. 23–24)

Rice commented that boost compressor capability requires the inverter/motor drives to be oversized to handle the increased torque and power draw, resulting in more performance drop off at lighter loads. Rice stated that this performance drop-off supports why limiting variable-speed rating tests to no lower than 82 °F may preclude future introduction of more efficient variable-speed drive/motor combinations in compressors that have larger performance advantages below 50-percent capacity reduction. Rice commented that boost compressor speed capability not only can result in unnecessary energy use and increased power demand during rapid cooldown but can also penalize unit performance at lower outdoor temperatures where significant amounts of cooling are delivered. Rice further commented that there is no incentive for manufacturers to limit or drop boost compressor speed features from their designs without some performance penalty applied to units with boost operation, especially if the lowest test point remains at the 82 °F test condition with 50 percent of rated capacity loading. Rice suggested provisions might also be included for suitable performance credits for variable-speed units that allow boost mode to be turned off by the homeowner or utility to reduce unnecessary energy use and/or peak demand. (Rice, No. 17 at pp. 2–3)

ASAP, NEAA, the Joint Commenters, and Rice encouraged DOE to further investigate the use and timing of boost compressor speed, expressing concern that not testing it may result in excluding a significant component of the energy use of these units. (ASAP, Public Meeting Transcript, No. 12 at p. 12; NEAA, Public Meeting Transcript, No. 12 at pp. 42–48; Joint Commenters, No. 15 at pp. 2–3; Rice, No. 17 at p. 3) Specifically, NEAA recommended that DOE conduct tests to determine the setpoint differential that would cause boost mode to kick in and the difficulty at which that is under normal or extreme operating conditions. (NEAA, Public Meeting Transcript, No. 12 at pp. 42–48) Rice recommended that DOE conduct additional load-based testing to estimate the added energy use and peak demand from boost compressor speed operation from a typical daytime setback, evening setup schedule.[31] (Rice, No. 17 at p. 3)

As discussed, boost compressor speed is a temporary period of elevated compressor speed that occurs to quickly reduce the indoor temperature of a room, typically upon startup or after a service interruption. DOE is not aware of any publicly available data on the frequency or duration of boost compressor speed operation in the field. As such, DOE is unable to ensure the representativeness of a test procedure that addresses boost compressor speed operation.

Further, in limited investigative testing of boost compressor speeds for two variable-speed room ACs, DOE was not able to induce a compressor speed higher than the full compressor speed, either by increasing the cooling load to greater than 100 percent or by adjusting the temperature setpoint during cooling mode operation. As such, it is unclear what test procedure provisions would be necessary to test boost compressor speed operation, or if there exists a compressor speed greater than that already activated by the settings in appendix F, without being unduly

[31] ''Setback'' typically refers to when the temperature setting on a thermostat is adjusted to a higher temperature for a period of time when the space will not be occupied or won't require as much cooling, and ''setup'' refers to when the thermostat setpoint is adjusted back to its original setting, at which the desired level of comfort is provided when the conditioned space is occupied.

burdensome. Therefore, DOE is not adopting boost compressor speed provisions in appendix F.

4. Capacity and Electrical Power Adjustment Factors

In the waivers and proposed June 2020 NOPR approach, a capacity adjustment factor is used to estimate the increased cooling capacity and reduced electrical power draw of a single-speed room AC at lower outdoor temperature conditions, using a linear extrapolation based on the measured capacity and power draw at the 95 °F test condition, respectively. 85 FR 35700, 35711 (Jun. 11, 2020). To determine these two adjustment factors, DOE used the MarkN model [32] to model room AC performance at reduced outdoor temperature conditions. *Id.* These modeling results suggested linear capacity and electrical power adjustment factors of 0.0099 per °F and 0.0076 per °F, respectively. *Id.*

To confirm the validity of these modeled adjustment factors, DOE tested a sample of 14 single-speed room ACs at a range of reduced outdoor temperature test conditions (92 °F, 87 °F, and 82 °F) and compared the predicted values of cooling capacity and electrical power with the measured values at each test condition. The results generally indicated close agreement (*i.e.,* less than 5 percent difference on average) between the modeled cooling capacity (based on an adjustment factor of 0.0099 per °F) and the measured capacity at each test condition, and between the modeled electrical power draw (based on an adjustment factor of 0.0076 per °F) and the measured electrical power draw at each test condition. DOE tentatively determined that the average difference of less than 5 percent between the modeled values and the experimental values confirmed the validity of these modeled adjustment factors. Therefore, in the June 2020 NOPR, DOE proposed to use the modeled adjustment factors of 0.0099 per °F and 0.0076 per °F for capacity and electrical power, respectively, to calculate the theoretical comparable single-speed room AC performance at reduced outdoor temperature test conditions. 85 FR 35700, 35711 (Jun. 11, 2020).

NEAA expressed concern about DOE's proposal to use linear capacity and electrical power adjustment factors to predict the capacity of fixed speed equipment at lower outdoor temperatures. NEAA commented that, while the order of magnitude of the error is small, the factors chosen consistently overpredict capacity and underpredict energy use for single-speed equipment. NEAA further commented that this will reduce the CEER ratings of variable-speed room ACs. NEAA recommended modifying the capacity and electrical power adjustment factors so that they do not overpredict capacity and underpredict energy use consistently. (NEAA, No. 16 at p. 5)

DOE disagrees with NEAA's assessment that the modeling factors consistently overpredict capacity and underpredict energy use. DOE observed that the modeling factors were able to predict capacity and energy use in the test sample within four percent on average, and often more accurately. Additionally, there was no consistent trend in the variation in capacity or energy use predictions (*i.e.,* some predictions were higher than the actual, some were lower). Therefore, DOE is adopting as proposed the capacity and electrical power adjustment factors of 0.0099 per °F and 0.0076 per °F, respectively.

5. Cycling Loss Factors

In the June 2020 NOPR, to represent the cycling losses of a theoretical comparable single-speed room AC at reduced outdoor temperature test conditions and expected reduced cooling loads, DOE identified cycling loss factors (''CLFs'') to apply to the interim CEER values at each of the four cooling mode test conditions for a theoretical comparable single-speed room AC. 85 FR 35700, 35711 (Jun. 11, 2020). Table III–4 shows the CLFs for each of the four test conditions.

TABLE III–4—JUNE 2020 NOPR PROPOSED CYCLING LOSS FACTORS

Test condition	Evaporator inlet air, °F		Condenser inlet air, °F		Cycling loss factor
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	1.0
Test Condition 2	80	67	92	72.5	0.971
Test Condition 3	80	67	87	69	0.923
Test Condition 4	80	67	82	65	0.875

These CLFs were based on the default cooling degradation coefficient (''Cd'') in Section 11.2 of AHRI Standard 210/240. The CLF at the 82 °F test condition for a theoretical comparable single-speed room AC is consistent with the default Cd of 0.25, which corresponds to a part-load (cycling loss) factor of 0.875, as determined in Section 11.2 of AHRI Standard 210/240. The remaining CLFs for the other test conditions are consistent with linear interpolation between the CLF of 0.875 at the 82 °F test condition and the CLF of 1.0 at the 95 °F test condition, at which no cycling is expected.

Thus, DOE proposed to implement CLFs consistent with the default Cd in AHRI Standard 210/240, to represent the expected performance of a theoretical comparable single-speed room AC at reduced outdoor temperature test conditions. *Id.*

AHAM commented that while DOE cited Section 11.2 of AHRI Standard 210/240 and a Cd of 0.25, AHRI Standard 210/240 includes a Cd of 0.20 for Single Stage Systems in Section 6.1.3.1.1. AHAM recommended that DOE ensure it uses the most recent version of the standard and the correct Cd. (AHAM, No. 13 at p. 5)

The California IOUs, NEAA, and Rice expressed concern about the proposed default Cd of 0.25. (California IOUs, Public Meeting Transcript, No. 12 at p. 30; NEAA, No. 16 at p. 5; Rice, No. 17 at pp. 3–4) NEAA commented that room ACs may cycle more than central air conditioners due to improper sizing, further pointing to a need for additional testing. (NEAA, No. 16 at p. 5) Rice commented that Figure III.1 in the June 2020 NOPR suggested that the Cd for the

[32] MarkN is an energy modeling program developed in an ECS direct final rule for room ACs that DOE published on April 21, 2011. 76 FR 22454. The MarkN program is an update of an adaptation to the Oak Ridge National Laboratory Mark III Heat Pump program for modeling room AC cooling performance.

load-tested room AC unit could be as high as 0.42, based on the 21-percent performance loss observed at 50-percent load; this compared with the 12.5-percent loss assumed at 50-percent load with the default Cd assumption. (Rice, No. 17 at pp. 3–4) The California IOUs and Rice recommended DOE conduct additional investigative load-based testing on single-speed room ACs to better estimate the Cd at the 82 °F test condition. (California IOUs, Public Meeting Transcript, No. 12 at p. 30; Rice, No. 17 at pp. 3–4)

Rice also commented that a room AC unit is unlikely to be sized exactly to match the room load at 95 °F outdoor ambient conditions. Rice further commented that a minimal 10-percent oversizing, equivalent to that assumed in AHRI Standard 210/240 for unitary ACs, would be more appropriate and would also provide a common basis with current AC ratings practice. Rice stated that use of 110-percent sizing would also provide an appropriate performance benefit, estimated to be approximately 3 percent, to variable-speed room ACs relative to single-speed units. Accordingly, Rice recommended that the assumption of exact sizing be modified to at least be consistent with 110-percent sizing as assumed in AHRI Standard 210/240 for unitary air conditioners. With 110-percent sizing, Rice noted that the default CLFs at 95, 87, and 82 °F would need to be adjusted to 0.977, 0904, and 0.864, respectively, for a Cd of 0.25. Rice also noted that they would need further adjustment if a different default Cd were selected or if the slope of the default single-speed capacity curve was changed. As for the proposed 75 °F test point, Rice commented that the CLFs with a 0.25 Cd are 0.820 at 100-percent sizing and 0.813 at 110-percent sizing. (Rice, No. 19 at p. 6; *see also* Rice, Preliminary Analysis, No. 25 at pp. 1–2)

DOE disagrees with Rice's claim that it is unlikely that room ACs are sized to match room cooling load at a 95 °F outdoor temperature test condition. Room ACs are intended to cool a single room, where the cooling load is more likely to remain steady or within a smaller range. DOE is not aware of any data showing that room ACs are typically oversized. Given the application of room ACs to a more limited space, DOE has determined that it is reasonable to assume that room ACs are sized to match room cooling loads at a 95 °F outdoor temperature test condition.

DOE acknowledges the concerns regarding the Cd as proposed in the June 2020 NOPR. In response, DOE conducted additional testing in support of this final rule to determine whether the AHRI Standard 210/240 single-stage Cd of 0.2 suggested by AHAM or a higher value such as 0.42 as suggested by the California IOUs, NEAA, and Rice would be more appropriate. DOE conducted load-based testing on two single-speed room ACs with cooling capacities comparable to variable-speed room ACs of the same brand/manufacturer currently on the market using an outdoor temperature of 82 °F and cooling loads between 47 and 57 percent of the full load, with a target of 52 percent (*i.e.,* the center of the acceptable range specified in the low compressor speed definition). DOE did not consider cycling losses at an outdoor temperature of 75 °F, based on the decision to not include testing at that temperature condition, as discussed in section III.C.2 of this document. The results of this testing are summarized in Table III–5.

TABLE III–5—CYCLING LOSS FACTORS

Unit	Load %	Cd
Unit 1	52	0.42
Unit 2	49	0.39
	54	0.30
	** 52*	*0.34*

* Due to difficulties in achieving the target load percentage of 52% for Unit 2, data for the nearest higher and lower data points were interpolated to estimate the expected Cd at a 52% load.

On average, the two single-speed room ACs had a Cd of 0.38 at the 82 °F test condition and 52 percent cooling load, which is relatively close to the maximum Cd value of 0.42 suggested by Rice. Based on DOE's test data, use of a Cd of 0.38 would increase a variable-speed room AC's measured CEER by approximately 5.5 percent. Based on this testing, DOE is adopting a Cd of 0.38, resulting in a CLF at the 82 °F test condition of 0.81. Interpolating between the 82 °F test condition and CLF of 0.81 and 95 °F test condition and CLF of 1, results in a CLF of 0.883 for the 87 °F test condition and a CLF of 0.956 for the 92 °F test condition.

6. Test Condition Weighting Factors

In the approach proposed in the June 2020 NOPR, the four interim CEER values representing each of the four cooling mode test conditions were combined, using four weighting factors, into a single weighted-average CEER value. 85 FR 35700, 35711–35712 (Jun. 11, 2020). The resulting weighted-average CEER value represented the weighted-average performance across the range of outdoor test conditions. *Id.* DOE calculated weighting factors based on the fractional temperature bin hours in Table 19 of DOE's test procedure for central air conditioners at appendix M. DOE identified the fractional temperature bin hours representing the four test conditions in the proposed approach and normalized these four values from appendix M so that they sum to 1.00.

Table III–6 shows the June 2020 NOPR weighting factors for each of the four test conditions.

TABLE III–6—JUNE 2020 NOPR PROPOSED TEMPERATURE CONDITION WEIGHTING FACTORS

Test condition	Evaporator inlet air, °F		Condenser inlet air, °F		CEER weighting factor
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	0.05
Test Condition 2	80	67	92	72.5	0.16
Test Condition 3	80	67	87	69	0.31
Test Condition 4	80	67	82	65	0.48

AHAM generally agreed with the waivers, which included the weighting factors above. (AHAM, No. 13 at p. 4)

ASAP, the Joint Commenters, and Rice expressed concern that DOE's proposed approach would not reflect seasonal efficiency, claiming it would result in underweighting performance at the higher outdoor temperature conditions and overweighting performance at the lower temperature conditions. ASAP commented that, under the weighted-average calculation proposed in the June 2020 NOPR delivered cooling from an hour of operation under the 95 °F test condition was equal to that under the 82 °F test condition, even though the delivered cooling, and energy consumption, at the 95 °F test condition is greater. (ASAP, Public Meeting Transcript, No. 12 at pp. 35–36) Rice suggested replacing the proposed performance weighting factors based on fractional bin hours with fractional delivered cooling output per bin because the proposed approach ignores that, at the lower ambient temperature bins, the delivered amount of cooling is proportionally lower (~50 percent at 82 °F ambient). Rice also recommended replacing the 92 °F test condition with a 75 °F test condition, to supplement the 82, 87, and 95 °F variable-speed ratings tests, to represent the missing ~40 percent of cooling load, as discussed in section III.C.2 of this document. For the proposed 75 °F test condition, Rice stated the variable-speed unit should be run at a reduced speed level to obtain ~30 percent of rated capacity at 95 °F ambient temperature. Rice expressed further concern that PAFs based on the wrong weighting factors and an inappropriately narrowed cooling range will give too much credit to variable-speed designs that operate best in this narrowed range, and may inadvertently favor variable-speed designs that seek ratings advantage by boosting performance at the 82 °F and higher test conditions at the expense of lower ambient temperature performance. (Joint Commenters, No. 15 at p. 2; Rice, No. 17 at pp. 1–2)

DOE agrees that the cooling delivered by room ACs at lower outdoor temperature test conditions is proportionally lower than at the appendix F single-speed test condition. Thus, calculating the test condition weighting factors using fractional delivered cooling output per temperature bin, as suggested by Rice, applied to the set of test conditions required by DOE above, would improve the representativeness of the test procedure. This change would not increase the testing burden as compared to the test procedure required under the waivers. While this change would diverge from the industry-accepted test procedure AHAM RAC–1–2020, the deviation is justified due to the improvements in representativeness of the test procedure. Therefore, DOE is adopting the test condition weighting factors shown in Table III–7, calculated by adjusting the weighting factors in Table III–6 by the expected cooling load at each condition based on the building load calculation in AHRI Standard 210/240 (Equation 11.60), and normalizing the resulting values so the final weighting factors sum to 1.0.

TABLE III–7—FINAL RULE TEMPERATURE CONDITION WEIGHTING FACTORS

Test condition	Evaporator inlet air, °F		Condenser inlet air, °F		CEER weighting factor
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	0.08
Test Condition 2	80	67	92	72.5	0.20
Test Condition 3	80	67	87	69	0.33
Test Condition 4	80	67	82	65	0.39

7. Weighted CEER and Performance Adjustment Factor

The final step in the waivers and the June 2020 NOPR proposed approach is to calculate the PAF, representing the improvement over a theoretical comparable single-speed room AC resulting from the implementation of a variable-speed compressor. 84 FR 20111 (May 8, 2019); 85 FR 31481 (May 26, 2020); 85 FR 35700, 35712 (Jun. 11, 2020). The PAF is calculated as the percent improvement of the weighted-average CEER value of the variable-speed room AC compared to the weighted-average CEER value of a theoretical comparable single-speed room AC under the four defined test conditions.

After calculating the PAF, it is added to one and the sum is multiplied by the CEER value of the variable-speed unit when tested at the 95 °F test condition according to appendix F, resulting in the final CEER metric for the variable-speed room AC. By adjusting the variable-speed room AC CEER values to be comparable to single-speed room AC CEER values, DOE expects that consumers will have the information they need to understand the relative efficiency of both types of room AC. In the June 2020 NOPR, DOE proposed calculations to determine a PAF, which would adjust the CEER of a variable-speed room AC to appropriately account for its efficiency improvements relative to a theoretical comparable single-speed room AC under varying operating conditions. 85 FR 35700, 35712 (Jun. 11, 2020).

Rice proposed a new method to calculate the weighted average CEER in which the individual weighting factors are divided by the tested CEER values, summed, and the reciprocal of the sum is the weighted CEER value. Rice noted that the result of this formulation exactly matches the result of the conventional binned method from AHRI 210/240. (Rice, No. 19 at pp. 3–4)

Rice provided little explanation or evidence supporting this new calculation approach and whether it provides more representative results than the approach proposed in the June 2020 NOPR, beyond indicating the result matches that of the binned method in AHRI 210/240. DOE notes that the calculation approach prescribed in the waivers and proposed in the June 2020 NOPR is the same approach specified in the AHAM RAC–1–2020, which is the latest version of the industry standard specific to room ACs. Therefore, DOE is adopting the PAF and weighted CEER calculations proposed in the June 2020 NOPR that align with AHAM RAC–1–2020 and the waivers granted to date.

8. Air-Enthalpy Test Alternative

DOE recognized the additional test burden associated with testing variable-speed room ACs at multiple test conditions as proposed. In an effort to minimize that additional test burden, DOE initially provided for an optional test in the interim waiver granted to LG that allowed for use of the air-enthalpy method. 83 FR 30717 (Jun. 29, 2018;

''LG Interim Waiver''). Following the publication of the LG Interim Waiver, DOE conducted investigative testing to further analyze the air-enthalpy method and its suitability for testing room ACs. This testing demonstrated that this method produced unrepresentative and inconsistent results and remedying these deficiencies likely would be unduly burdensome. *See* 84 FR 20111, 20117. (May 8, 2019) In addition, the air-enthalpy method does not measure any heat transfer within and through the unit chassis, while the calorimeter test does. *See Id.* Because of the unrepresentative and inconsistent results obtained with the air-enthalpy test equipment that testing laboratories are likely to already own, as well as the higher cost and limited availability of equipment that would be necessary to obtain consistent results for all room ACs of differing airflow rates, DOE contended that the air-enthalpy test method would be unduly burdensome for testing laboratories to implement for room ACs at this time. DOE further noted that, in the waivers granted since the publication of the LG Interim Waiver, DOE did not allow the air-enthalpy test method as an alternative to the calorimeter test method due to the concerns outlined above. 84 FR 20111, 20117 (May 8, 2019), 84 FR 68159, 68162 (Dec. 13, 2019). In the June 2020 NOPR, DOE did not propose to include an optional alternative air-enthalpy test method for variable-speed room ACs in appendix F. 85 FR 35700, 35712 (Jun. 11, 2020).

The California IOUs supported DOE's proposal to exclude the air-enthalpy test from the room AC test procedure. The California IOUs commented that DOE's testing demonstrated that this method was unrepresentative and inconsistent, and remedying those deficiencies would be unduly burdensome. (California IOUs, No. 14 at pp. 5–6)

For the reasons discussed in the preceding paragraphs and in the June 2020 NOPR, DOE is not adopting the air-enthalpy test method for the testing of variable-speed room ACs in this final rule.

9. Product Specific Reporting Provisions

As described, the amendments to appendix F to test variable-speed room ACs at multiple cooling mode test conditions will require the use of fixed temperature conditions with a unit thermostat setpoint of 75 °F, using the same specifications for single-speed room AC controls given in appendix F, rather than using the manufacturer instructions to fix the compressor speed for variable-speed room ACs at the 95 °F and 92 °F test conditions. The amendments to appendix F will also require the compressor speed to be fixed to intermediate speed at the 87 °F test condition and low speed at the 82 °F test condition, as discussed and defined in section III.D.1.b of this document and in Sections 2.15 and 2.16, respectively, in appendix F.

In the June 2020 NOPR, to ensure test reproducibility, DOE proposed requiring in 10 CFR 429.15 that manufacturers provide DOE all necessary instructions to maintain the compressor speeds required for each test condition for a variable-speed basic model, as additional product-specific information pursuant to 10 CFR 429.12 (b)(13). 85 FR 35700, 35713 (Jun. 11, 2020). DOE expected that this requirement would add a *de minimis* incremental burden to the existing reporting requirements. *Id.* DOE received no comments on this proposal.

DOE is including in 10 CFR 429.15 reporting requirements for compressor frequencies and control settings at the 87 °F and 82 °F test conditions as additional product-specific information for certification of each variable-speed room AC basic model. Note that, unlike the proposal in the June 2020 NOPR, DOE is not requiring reporting of the compressor frequency and control settings as additional product-specific information for certification for the 95 °F and 92 °F test conditions for variable-speed units, as discussed in section III.C.3 of this final rule. Manufacturers may request treatment of reported material as confidential business information pursuant to the regulations at 10 CFR 1004.11.

10. Estimated Annual Operating Cost Calculation

In the June 2020 NOPR, in conjunction with the amendments for testing variable-speed room ACs, DOE proposed corresponding amendments to the calculation that provides the basis of the annual energy consumption and operating cost information presented to consumers on the EnergyGuide Label. 85 FR 35700, 35713 (Jun. 11, 2020). These changes would allow for an appropriate comparison of the annual energy consumption and operating costs between single-speed room ACs and variable-speed room ACs. As such, in the June 2020 NOPR, DOE proposed that for variable-speed room ACs, the average annual energy consumption used in calculating the estimated annual operating cost in 10 CFR 430.23(f) would be a weighted average of the annual energy consumption at each of the four test conditions in newly added Table 1 of appendix F and the annual energy consumption in inactive mode or off mode. *Id.* DOE provided, however, that the electrical power input reported for variable-speed room ACs for purposes of certification in 10 CFR 429.15(b)(2) would be the value measured at the 95 °F rating condition, to maintain consistency with the cooling capacity measured at the same condition. *Id.*

The California IOUs asserted that the proposed methods for calculating the annual operating costs will create market confusion, mainly because the variable-speed annual operating energy consumption would be based on a weighted average that includes and heavily weights conditions at which the unit provides less cooling, whereas the average annual energy consumption of a single-speed unit would continue to be based on the 95 °F condition, at which the unit provides more cooling and thus consumes more energy. The California IOUs stated that using different test procedures and energy consumption calculations for different equipment that provide the same consumer utility, in this case, space conditioning, has the potential to create market distortions. (California IOUs, No. 14 at p. 2)

Conceptually, variable-speed room ACs and single-speed room ACs both deliver the same amount of cooling to a room, albeit in different ways. The variable-speed room AC provides constant cooling at a reduced rate, while the single-speed room AC switches on to provide maximum cooling for a period of time before switching off and providing no cooling until the temperature in the room rises again. In both cases, the total amount of cooling provided to the room remains the same, only the power consumed by the unit to provide the cooling is different. Furthermore, the test procedure adopted in this final rule assesses the improved efficiency associated with variable-speed room ACs relative to single-speed room ACs, on the basis of adjusted operation at varying, reduced-temperature operating conditions and accounting for reduced energy use associated with eliminating cycling losses. This approach of factoring in reduced-temperature operation over the varying load conditions during the operating hours of the cooling season is thus appropriate for variable-speed units but not for single-speed units.

For the reasons discussed above, as proposed in the June 2020 NOPR, DOE is requiring that the average annual energy consumption used in calculating the estimated annual operating cost of variable-speed room ACs in 10 CFR 430.23(f) be a weighted average of the annual energy consumption at each of the four test conditions in newly added

Table 1 of appendix F and the annual energy consumption in inactive mode or off mode, to reflect a realistic measure of energy use and operating costs in a representative average use cycle. Additionally, as proposed in the June 2020 NOPR, DOE is defining the electrical power input reported for variable-speed room ACs for purposes of certification in 10 CFR 429.15(b)(2) to be the value measured at the 95 °F rating condition, to maintain consistency with the cooling capacity measured at the same condition, and to provide consumers with the cooling capacity and power input expected at full load conditions.

D. Definitions

In the June 2020 NOPR, DOE proposed adding a number of definitions to appendix F to accompany the amendments made in this final rule. None of these definitions modified the scope of covered products. 85 FR 35700, 35713 (Jun. 11, 2020). The following section describes each definition in detail.

1. Key Terms

In the June 2020 NOPR, DOE proposed definitions for three key terms that appeared in appendix F but have no definitions: Cooling mode, cooling capacity, and combined energy efficiency ratio. 85 FR 35700, 35713 (Jun. 11, 2020). Although room ACs may sometimes operate in other modes as discussed further in section III.E of this final rule, the room AC CEER metric determined in appendix F was based primarily on performance in cooling mode, and several of the amendments also reference ''cooling mode.'' Therefore, DOE proposed the following definitions for cooling mode, cooling capacity, and combined energy efficiency ratio in appendix F:

''Cooling mode'' means an active mode in which a room air conditioner has activated the main cooling function according to the thermostat or temperature sensor signal or switch (including remote control).

''Cooling capacity'' means the amount of cooling, in Btu/h, provided to an indoor conditioned space, determined in Section 4.1 of appendix F.

''Combined energy efficiency ratio'' means the energy efficiency of a room air conditioner as measured in Btu/Wh and determined in Section 5.2.2 of appendix F for single-speed room air conditioners and Section 5.3.12 of appendix F for variable-speed room air conditioners. *Id.*

To support the amendments pertaining to variable-speed basic models, in the June 2020 NOPR, DOE proposed defining single-speed and variable-speed room ACs as follows:

''Single-speed room air conditioner'' means a type of room air conditioner that cannot automatically adjust the compressor speed based on detected conditions.

''Variable-speed room air conditioner'' means a type of room air conditioner that can automatically adjust compressor speed based on detected conditions. 85 FR 35700, 35714 (Jun. 11, 2020).

AHAM supported DOE's proposal to add these new definitions in appendix F. (AHAM, No. 13 at p. 6)

For the reasons discussed in the June 2020 NOPR, DOE is adopting these new definitions in appendix F.

2. Compressor Speeds

In the June 2020 NOPR, DOE also proposed defining the three compressor speeds required for variable-speed testing. 85 FR 35700, 35714 (Jun. 11, 2020). DOE referred to these compressor speeds as ''full,'' ''intermediate,'' and ''low'' based on the test procedure terminology of AHRI Standard 210/240, and were proposed as follows:

''Full compressor speed (full)'' means the compressor speed at which the unit operates at full load test conditions, achieved by following the instructions certified by the manufacturer.

''Intermediate compressor speed (intermediate)'' means a compressor speed higher than the low compressor speed by one third of the difference between low compressor speed and full compressor speed with a tolerance of plus 5 percent (designs with non-discrete speed stages) or the next highest inverter frequency step (designs with discrete speed steps), achieved by following the instructions certified by the manufacturer.

''Low compressor speed (low)'' means the compressor speed at which the unit operates at low load test conditions, achieved by following the instructions certified by the manufacturer, such that $Capacity_4$, the measured cooling capacity at test condition 4 in Table 1 of appendix F, is not less than 47 percent and not greater than 57 percent of $Capacity_1$, the measured cooling capacity with the full compressor speed at test condition 1 in Table 1 of appendix F.[33] *Id.*

AHAM generally agreed with the waivers, which included the proposed 10-percent range and 57-percent cooling load as its upper bound above. (AHAM, No. 13 at p. 6)

The Joint Commenters, NEAA, and the California IOUs urged DOE to ensure that the proposed fixed compressor speeds are representative of real-world operation. The Joint Commenters, NEAA, and the California IOUs expressed concern that the proposed definition for low compressor speed could lead to measured efficiency values that are not representative. NEAA and the California IOUs pointed to the potential that energy values can subsequently be better than the unit can actually produce in the real world under conditions of less than 95 °F, allowing manufacturers to ''game'' efficiency ratings as a unit may run differently if its full-load speed does not match how the unit runs in the real world under 95 °F outdoor conditions. Thus, NEAA and the California IOUs suggested that DOE perform additional investigative testing under the 95 °F test condition under native controls and reference variable refrigerant flow air conditioning test procedures regarding whether speed represents use. (NEAA, Public Meeting Transcript, No. 12 at pp. 37–42; California IOUs, Public Meeting Transcript, No. 12 at pp. 30–33; California IOUs, No. 14 at p. 4) Similarly, the Joint Commenters asserted that, under DOE's proposal, manufacturers may have an incentive to test at the 82 °F condition at the compressor speed that provides a cooling capacity as close as possible to 47 percent of the full-load capacity since efficiency typically increases at lower compressor speeds. The Joint Commenters stated that providing 47 percent of the full-load cooling capacity would not meet the cooling load at 82 °F, and that a low compressor speed lower than the operating speed in the field could also result in the intermediate compressor speed being artificially low. The Joint Commenters noted that a variable-speed unit that cannot provide 57 percent of the full-load cooling capacity cannot in fact ''match'' the representative cooling load at the 82 °F condition. The Joint Commenters stated the test procedure should reflect the potential efficiency gains of variable-speed units that can vary their speed continuously (or in smaller discrete steps) relative to units with compressors with larger discrete steps. (Joint Commenters, No. 15 at pp. 1–2)

As discussed in section III.D of the June 2020 NOPR, the 10-percent range allows for discrete variable-speed compressor stages while maintaining the representativeness of the test procedure. While a variable-speed room

[33] Further information about the acceptable range of delivered cooling at the low compressor speed and lowest test condition, and how they were derived, can be found in the June 2020 TP NOPR. 85 FR 35700, 35714.

AC that cannot operate at precisely 57 percent of the full-load cooling capacity cannot exactly match the cooling load at the 82 °F test condition, it could compensate for this in real world operation at an 82 °F outdoor temperature by operating at a lower compressor speed and moving to a higher compressor speed if the room becomes too hot. DOE observed variable-speed compressors with this behavior during load-based testing, though noted that the compressor speed adjustments did not occur frequently, resulting in extended periods of operation at a single compressor speed. Furthermore, the difference in power consumption between the two speeds observed in these scenarios was only about 5% of the full load operating power, and therefore this style of operation would still result in more efficient operation compared to cycling a single-speed compressor on and off to maintain the reduced load. These variable-speed units still provide significant energy savings, so it is important to account for this sort of variable-speed compressor behavior and ensure the test procedure is applicable to even those variable-speed room ACs that have discrete compressor speed steps that may not provide exactly 57 percent of the full-load cooling capacity. DOE further notes that requiring a low compressor speed that results in a single loading percentage (*i.e.,* 57 percent of the full-load cooling capacity) with no tolerance could greatly increase design and manufacturing burden, and thus may disincentivize the adoption of more efficient technology being newly introduced for room ACs. A 10-percent range would allow for the various types of variable-speed compressors (*i.e.,* discrete and non-discrete), avoid significant burden on manufacturers, and avoid disincentivizing the adoption of this technology. An upper compressor speed limit of 57 percent of the full-load cooling capacity would ensure that the unit does not cycle on and off under the cooling load expected at an outdoor temperature of 82 °F, which would negate much of the efficiency benefits relative to single-speed room ACs). Therefore, DOE proposed a lower limit of 47 percent to maintain the desired 10-percent range of cooling loads while setting 57 percent of the full-load cooling capacity as the upper limit.

In this final rule, DOE is revising the definition of ''full compressor speed'' proposed in the June 2020 NOPR, to account for the new requirements discussed in section III.C.3.a (*i.e.,* to require that user settings be implemented to achieve maximum cooling capacity when testing using full compressor speed, rather than fixing the compressor speed using instructions provided by the manufacturer).

Furthermore, DOE is also revising the ''intermediate compressor speed'' definition proposed in the June 2020 NOPR, to clarify that the intermediate compressor speed is defined based on the measured capacity at the 95 °F and 82 °F test condition, using the full and low compressor speeds, respectively.

Thus, DOE is adopting its proposals from the June 2020 NOPR, as detailed below.

In summary, DOE defines the following in newly added Sections 2.14, 2.15, and 2.16 of appendix F:

''Full compressor speed (full)'' means the compressor speed at which the unit operates at full load test conditions, achieved by using user settings to achieve maximum cooling capacity, according to the instructions in ANSI/ASHRAE Standard 16–2016 Section 6.1.1.4.

''Intermediate compressor speed (intermediate)'' means a compressor speed higher than the low compressor speed at which the measured capacity is higher than the capacity at low compressor speed by one third of the difference between $Capacity_4$, the measured cooling capacity at test condition 4 in Table 1 of this appendix, and $Capacity_1$, the measured cooling capacity with the full compressor speed at test condition 1 in Table 1 of this appendix, with a tolerance of plus 5 percent (designs with non-discrete speed stages) or the next highest inverter frequency step (designs with discrete speed steps), achieved by following the instructions certified by the manufacturer.

''Low compressor speed (low)'' as the compressor speed specified by the manufacturer at which the unit operates at low load test conditions, such that $Capacity_4$, the measured cooling capacity at test condition 4 in Table 1 of this appendix, is no less than 47 percent and no greater than 57 percent of $Capacity_1$, the measured cooling capacity with the full compressor speed test condition 1 in Table 1 of this appendix.

E. Active Mode Testing

The following sections describe amendments and other considerations regarding the active mode testing provisions of appendix F.

1. Cooling Mode

The DOE room AC test procedure uses a calorimeter test method to determine the cooling capacity and associated electrical power input of a room AC. See Sections 3.1 and 4.1 of appendix F, as amended. Under this approach, the test unit is installed between two chambers, one representing the indoor side and the other representing the outdoor side, which are both maintained at constant conditions by reconditioning equipment. The room AC operates in cooling mode, transferring heat from the indoor side to the outdoor side, while the reconditioning equipment counteracts the effects of the room AC to maintain constant test chamber conditions. The room AC cooling capacity is determined by measuring the required energy inputs to the reconditioning equipment.

a. Test Setup and Air Sampling

In the June 2020 NOPR, DOE discussed concerns about whether the measured calorimeter chamber temperature reading is representative of conditions at the test unit condenser and evaporator inlet, which may be affected by recirculation from the condenser and evaporator exhaust, respectively, thereby potentially reducing test repeatability and reproducibility. 85 FR 35700, 35715 (Jun. 11, 2020). DOE noted that the size, capability, and orientation of components within calorimeter test chambers may vary significantly, and that third-party laboratories extensively analyze their chambers and testing apparatus to maintain consistent and accurate air sampling measurements. DOE also understood that temperature gradients and unique airflow patterns can result from the interaction of a chamber reconditioning apparatus and the room AC under test, and that these interactions are particular to and dependent upon factors such as chamber size and shape, chamber equipment arrangement, size of reconditioning apparatus, and others, as noted in ANSI/ASHRAE Standard 16–2016 Section 8.2.7. Therefore, in the June 2020 NOPR, DOE contended that universal requirements for air sampling instrumentation and thermocouple placement could potentially reduce test accuracy and reproducibility. As discussed in section III.B.2 of this document, DOE proposed to update the reference to ANSI/ASHRAE Standard 16 to the most current 2016 version, which includes additional clarification on best practices for air sampler and thermocouple placement. *Id.*

DOE received no comments on the test setup and air sampling discussion and proposals from the June 2020 NOPR. For the reasons discussed in the preceding paragraph, DOE is updating the reference to ANSI/ASHRAE

Standard 16 to the most current 2016 version, which includes additional clarification on best practices for air sampler and thermocouple placement.

b. Air-Enthalpy Test

In the June 2020 NOPR, as discussed in section III.B.2 of this document, DOE proposed to adopt the use of the calorimeter test method specified in ANSI/ASHRAE Standard 16–2016 for determining the cooling mode performance in appendix F. ANSI/ASHRAE Standard 16–2016 additionally permits an air-enthalpy test method (also referred to as a psychrometric test method), in which a technician places instruments in or near the evaporator air stream to measure the rate of cooled air added to the conditioned space. DOE conducted testing to investigate any differences in test results between air-enthalpy and calorimeter approaches and found a wide range of discrepancies between the two, for both cooling capacity and efficiency. DOE expected that obtaining more accurate results would require specialized test equipment that is limited in availability and costly to design, develop, and produce and, hence, DOE did not propose to include an air-enthalpy test approach for determining cooling mode performance of room ACs. 85 FR 35700, 35715 (Jun. 11, 2020).

The California IOUs agreed with DOE's conclusion to exclude the air-enthalpy test procedure in ANSI/ASHRAE Standard 16–2016. The California IOUs noted that DOE's testing, shown in the June 2020 NOPR, demonstrated that this method was unrepresentative and inconsistent, and remedying these deficiencies would be unduly burdensome. (California IOUs, No. 14 at pp. 5–6)

Based on DOE's investigative testing data, DOE maintains its proposal to not allow the use of the air-enthalpy method for determining room AC cooling mode performance.[34]

c. Side Curtain Heat Leakage and Infiltration Air

i. Non-Louvered (Through-The-Wall) Room Air Conditioners

In the June 2020 NOPR, DOE proposed to specify in appendix F that non-louvered room ACs, which are designed for through-the-wall installation, must be installed using a compatible wall sleeve (per manufacturer instructions), with the provided or manufacturer-required rear grille, and with the included trim frame and other manufacturer-provided installation materials. 85 FR 35700, 35716 (Jun. 11, 2020).

The California IOUs supported DOE's language on the use of manufacturer-provided wall sleeves. However, the California IOUs expressed concern that it may not be apparent to laboratories that they should not use additional material beyond that supplied by the manufacturer. The California IOUs suggested adding the following sentence to the proposed appendix F to 10 CRF Part 430: ''*No sealing or insulation material other than that provided by the manufacturer shall be installed between the wall sleeve and the cabinet of the room air conditioner.*'' (California IOUs, No. 14 at p. 6) DOE understands the concern about test laboratories using additional sealing and insulation material between the unit and the wall sleeve. As discussed in the June 2020 NOPR, DOE determined that testing non-louvered room ACs, with the provided or manufacturer-required rear grille, and with the included trim frame and other manufacturer-provided installation materials maximized repeatability and reproducibility. 85 FR 35700, 35716 (Jun. 11, 2020). To address the concern that test laboratories might provide additional sealing or insulation for a non-louvered room AC, DOE is clarifying in this final rule that these units should only be tested using the manufacturer-provided materials.

Therefore, DOE is modifying its proposal from the June 2020 NOPR in this final rule, specifying in appendix F that non-louvered room ACs, which are designed for through-the-wall installation, must be installed using a compatible wall sleeve (per manufacturer instructions), with a provided or manufacturer-required rear grille, and with only the included trim frame and other manufacturer-provided installation materials.

ii. Louvered (Window) Room Air Conditioners

In the June 2020 NOPR, DOE proposed, consistent with Sections 6.1.1.4 and Section 8.4.2 of ANSI/ASHRAE Standard 16–2016, not to require installing louvered room ACs with the manufacturer-provided installation materials, including side curtains, and instead to require testing with the partition wall sealed to the unit. 85 FR 35700, 35717 (Jun. 11, 2020).

AHAM agreed with DOE's proposal to not require the use of manufacturer-provided installation materials in appendix F for louvered room ACs. AHAM cited previous DOE testing which showed that using manufacturer-provided materials included in the retail packaging led to only a 2.5-percent increase in cooling capacity, while not using manufacturer-provided installation materials led to a 4.7-percent reduction in cooling capacity. AHAM stated that this testing did now show consistent or significant change in cooling capacity. (AHAM, No. 13 at p. 6)

The California IOUs and Joint Commenters asserted the need for DOE to capture the effects of real-world installations of room AC units. (California IOUs, No. 14 at p. 6; Joint Commenters, No. 15 at pp. 5–6) The California IOUs commented that with the requirement for indoor and outdoor test rooms to have virtually no pressure differential, the inclusion of side curtains would not have a significant effect in laboratory testing. The California IOUs also stated that repeatability of testing is likely to decrease with side curtains included in the operational test. However, the California IOUs also asserted that testing with side curtains during only the operational test of window room AC units is unlikely to be representative of an average-use cycle. The California IOUs commented that the consumer incurs energy losses during all hours when the room AC is installed, not just while the compressor is on. The California IOUs further commented that the method for calculating the annual cost of operation assumes that the unit is installed for at least 5,865 hours annually, with only 750 hours of compressor operation, and thus including energy losses from side curtains is important to ensure a fair comparison between room ACs with side curtains and competing products that do not incur side curtain losses, such as through-the-wall room ACs and mini-split air conditioners. The California IOUs recommended that DOE evaluate energy losses due to side curtains regardless of the mode of operation and determine a constant representative adjustment factor to account for the losses based on the size of the window room AC in the CEER. (California IOUs, No. 14 at p. 6) The Joint Commenters cited laboratory performance testing of louvered units in which the National Renewable Energy Laboratory found that standard testing simulations do not account for leakage in operation due to manufacturer-provided installation materials. According to the Joint Commenters, leakage from the manufacturer-provided

[34] Although DOE incorporates by reference ANSI/ASHRAE Standard 16–2016, which includes an optional air-enthalpy method, only those sections in ANSI/ASHRAE Standard 16–2016 that apply to the calorimeter method are referenced in Appendix F.

materials was equivalent to a 27–42 square inch hole in the wall, and an improved installation has the potential to reduce this leakage by 65–85 percent. The Joint Commenters commented that, in the preliminary 2020–06 Technical Support Document (''TSD''), DOE explained that because DOE's investigative testing was conducted with no pressure difference between the rooms, the tests were not able to measure the real-world impacts of infiltration.[35] The Joint Commenters asserted that the test procedure does not capture potentially significant inefficiencies in typical installations. The Joint Commenters encouraged DOE to investigate how the test procedure could capture the effects of real-world installations of room AC units, which would provide an incentive to manufacturers to offer improved installation materials such that leakage is reduced. The Joint Commenters further stated that, in addition to saving energy, reducing leakage would also improve cooling performance by reducing the amount of hot air entering from outdoors, which ultimately would improve consumer comfort. (Joint Commenters, No. 15 at pp. 5–6)

DOE is not aware of an industry-accepted method to evaluate heat losses to the outdoors during the room AC representative use cycle or during times when the room AC is installed but not operating, or of any data quantifying the magnitude of these losses.

DOE has preliminarily investigated applying a pressure difference between the indoor and outdoor chambers during the standard appendix F test procedure, as the Joint Commenters suggested. While it was possible to create a pressure difference between the rooms, temperature and humidity within the chamber did not stabilize and the resulting test data did not meet the tolerance requirements from ASHRAE 16–2016 required in appendix F. Furthermore, for some larger-capacity units, it was difficult for the chamber to maintain the pressure difference throughout the rating test period given the air flow interaction between the unit operation and the chamber reconditioning equipment. It is therefore unclear how the influence of infiltration air could be measured within the DOE test procedure for room ACs, given the difficulties associated with testing using a fixed pressure difference between the indoor and outdoor test chambers.

Therefore, as proposed, DOE is not requiring in this final rule installation of louvered room ACs with the manufacturer-provided installation materials, including side curtains, and instead is requiring the partition wall be sealed to the unit during testing, as specified in Section 6.1.1.4 of ANSI/ASHRAE Standard 16–2016. Accordingly, as discussed above, DOE is not adopting a test to evaluate, or a constant representative adjustment factor to account for, heat losses to the outdoors during the room AC representative use cycle or during times when the room AC is installed but not operating and is not adopting a test requiring a pressure differential between the indoor and outdoor chambers at this time.

d. Test Conditions

Multiple Test Conditions

In the June 2020 NOPR, DOE did not propose additional cooling mode test conditions for single-speed room ACs because a test procedure that measures performance at both peak temperature conditions and a less extreme temperature would require a new overall weighted metric, room AC performance has historically been based on peak performance under elevated outdoor temperature conditions and peak performance would not be clearly portrayed by a weighted metric, and information about variable-speed room ACs is too limited to justify the expected substantial increase in test burden, utility impacts, and consumer confusion associated with measuring performance at reduced outdoor temperature test conditions for all room ACs. 85 FR 35700, 35723 (Jun. 11, 2020).

AHAM agreed with maintaining a single test condition for single-speed room ACs. (AHAM, Public Meeting Transcript, No. 12 at pp. 50–53) ASAP, the California IOUs, and NEAA stated that testing only at the 95 °F outdoor test condition may not provide an accurate relative ranking of different single-speed room AC units as they are likely to have varying efficiency and performance at lower temperature conditions. (ASAP, Public Meeting Transcript, No. 12 at pp. 11–12; California IOUs, Public Meeting Transcript, No. 12 at pp. 30–33) NEAA suggested that single-speed room AC units be given the option to test at multiple test conditions to allow better single-speed options to demonstrate improved performance, while not requiring all products to retest. (NEAA, No. 16 at p. 3)

The California IOUs encouraged DOE to amend the room AC test procedure to improve representativeness and facilitate product comparison with air conditioners tested under appendix M1 to 10 CFR part 430. The California IOUs stated that DOE's proposal to create a part-load test for room ACs with variable-speed compressors recognizes that testing single-speed room ACs only at full capacity is unrepresentative of an average-use cycle. The California IOUs stated that, in their experience, using different test procedures and energy consumption calculations for equipment that provides the same consumer utility, in this case, space conditioning, has the potential to create market distortions. The California IOUs further stated that the rest of the air conditioning industry has moved towards testing at part load, and recommended that DOE consider a consistent approach for room ACs.[36] To minimize market confusion, the California IOUs suggested that the room AC test procedure should be as similar as possible for the test procedure for central air conditioners and heat pumps, including measuring part-load performance for room ACs, as defined for central air conditioners and heat pumps in appendix M1 to 10 CFR part 430. The California IOUs stated that aligning test procedures and energy efficiency metrics for room ACs with a cooling capacity greater than or equal to 9,000 Btu/h and central air conditioners and heat pumps would enhance consumers' ability to choose the product that best fits their needs. The California IOUs further stated that, because many room AC manufacturers also make products that fall under appendix M1 to 10 CFR part 430 and are familiar with the test procedure, the transition to a test procedure for room ACs aligned with appendix M1 would be relatively easy. (California IOUs, No. 14 at pp. 1–3)

While certain single-speed room ACs may perform differently under reduced outdoor temperature test conditions, requiring two or more tests for every single-speed room AC, either by testing at multiple test conditions or aligning the room AC test procedure with appendix M1, would at least double the test burden on manufacturers of single-speed room ACs that represent the vast majority of the market. A voluntary reduced outdoor temperature test would require a revision of the test procedure and the CEER metric to account for a multiple-condition single-speed room AC test. Such an option may be

[35] 2020–06 Technical Support Document: Energy Efficiency Program For Consumer Products And Commercial And Industrial Equipment: Room Air Conditioners (EERE–2014–BT–STD–0059–0013).

[36] Based on the context of the California IOUs' comment, it is understood that the California IOUs are referring to how appendix M1 accounts for operation at reduced cooling loads and not load-based testing as discussed above.

confusing to consumers who are trying to compare single-speed room ACs with metrics that are not directly comparable. Additionally, because single-speed units cannot cycle on and off during a reduced outdoor temperature test (*i.e.,* because the chamber conditions are held constant throughout the test), the reduced outdoor temperature test alone would not be representative of the single-speed room AC's real world operation, and cycling would need to additionally be considered. Aligning the room AC test procedure with the appendix M1 test procedure would greatly increase the test burden on manufacturers for typically inexpensive and seasonal units. Therefore, in this final rule, DOE is not establishing multiple test conditions for single-speed room ACs or adopting provisions to align the room AC test procedure with the central air conditioner test procedure at appendix M1.

Cooling Test Alternatives

DOE is aware of two approaches to measure part-load performance of a room AC, dynamic-cooling-load testing and constant-cooling-load testing. In both a dynamic-cooling-load test and a constant-cooling-load test, the chamber indoor cooling load was provided at a specified rate or value throughout testing instead of maintaining specific temperature conditions within the test chamber. In the June 2020 NOPR, DOE explored a constant-cooling-load test and concluded that increased test burden, reduced repeatability and reproducibility, and a current lack of industry consensus on a constant-cooling-load or dynamic-cooling-load test procedure outweighed potential benefits. 85 FR 35700, 35723 (Jun. 11, 2020). Thus, in the June 2020 NOPR, DOE did not propose a constant-cooling-load or dynamic-cooling-load test for room ACs. *Id.*

AHAM agreed with DOE's initial conclusion that the potential benefits of constant-cooling-load or dynamic-cooling-load tests do not justify the increase in test burden or the negative impact on repeatability and reproducibility. According to AHAM, DOE's testing demonstrated that conducting a constant-cooling-load test in a calorimeter test chamber would impact the repeatability and reproducibility—at cooling loads less than 75 percent of the tested unit cooling capacity, the indoor wet-bulb temperature variation in DOE's test sample sometimes exceeded 0.3 °F. AHAM cited that DOE also observed challenges with the test chamber—the chamber controls were not capable of automatically achieving a specific cooling load condition. Additionally, AHAM commented that this type of testing would significantly increase test burden. (AHAM, No. 13 p. 6)

ASAP, Joint Commenters, NEAA, and the California IOUs disagreed with DOE's initial conclusion and proposal in the June 2020 NOPR and urged DOE to use a load-based test to better represent real-world efficiency of both single-speed and variable-speed units. (ASAP, Public Meeting Transcript, No. 12 at p. 1; Joint Commenters, No. 15 at pp. 3–4; NEAA, No. 16 at pp. 4–5) ASAP commented that using a load-based test procedure for all room ACs would provide the most representative efficiency ratings and accurate information for customers. (ASAP, Public Meeting Transcript, No. 12 at p. 1) The Joint Commenters noted that, for single-speed units, a load-based test would capture the impact of cycling losses. The Joint Commenters further noted that, for variable-speed units, load-based testing would capture the impact of control strategies that determine compressor and fan speed operation and would ensure that the test procedure reflects the real-world operation of these units. (Joint Commenters, No. 15 at pp. 3–5) NEAA commented that its initial load-based testing of ductless heat pumps indicated that controls can dramatically affect performance and suggested the same effects could be found with room ACs. (NEAA, No. 16 at pp. 4–5)

DOE acknowledges that a constant-cooling-load or dynamic-cooling-load test for all room ACs has the potential to be more representative of real-world operation. However, a load-based test would reduce repeatability and reproducibility due to limitations in current test chamber capabilities, as discussed in the June 2020 NOPR, which would negatively impact the representativeness of the results and potentially be unduly burdensome. 85 FR 35700, 35723–35726 (Jun. 11, 2020). Therefore, based on DOE's investigative testing and to maintain test procedure alignment with AHAM RAC–1–2020, in this final rule DOE maintains its proposal not to include a constant-cooling-load or dynamic-cooling-load test for room ACs in appendix F.

e. Power Factor

In the June 2020 NOPR, DOE did not propose requirements for measuring and reporting the power factor [37] for room ACs. 85 FR 35700, 35726 (Jun. 11, 2020). Based on investigative testing DOE found that there was no significant difference between the actual power drawn by a room AC and the apparent power supplied to the unit, meaning the additional burden of measuring and reporting the power factor would outweigh any benefits this information would provide. *Id.* The California IOUs agreed that the results—an average power factor of 0.97 on 23 units—do not provide evidence that warrants the inclusion of power factor in the test procedure. However, the California IOUs commented that variable-speed motor controllers often have lower power factors compared to direct-on-line motors used in single-speed room ACs [38] and requested that DOE indicate whether the room ACs tested included representative variable-speed compressor room ACs. If not, the California IOUs requested that DOE consider conducting power factor testing of variable-speed room ACs and reporting the results. (California IOUs, No. 14 at p. 5)

None of the 23 units DOE tested during the power factor investigation for the June 2020 NOPR were variable-speed units. To date, DOE has been unable to gather power factor data for variable-speed room ACs due to instrumentation limitations. In the absence of data that suggest that variable-speed power factors are significantly different than single-speed power factors, DOE is not adopting a power factor measurement or reporting requirements for room ACs at appendix F in this final rule.

2. Heating Mode

When a reverse cycle room AC is in heating mode, the indoor evaporator coil switches roles and becomes the condenser coil, providing heat to the indoor room. The outdoor condenser unit also switches roles to serve as the evaporator and discharges cold air to the outdoors. Appendix F does not include a method for measuring room AC energy consumption in heating mode.

In the June 2020 NOPR, DOE did not propose a heating mode test procedure for room ACs based on the lack of data of room AC used for heating and given the potential concerns raised by stakeholders that combining cooling mode and heating mode performance

[37] The power factor of an alternating current electrical power system is defined as the ratio of the real power flowing to the load to the apparent power in the circuit. A load with a low power factor draws more electrical current than a load with a high power factor for the same amount of useful power transferred. The higher currents associated with low power factor increase the amount of energy lost in the electricity distribution system.

[38] Greenberg, S. (1988). Technology Assessment: Adjustable-Speed Motors and Motor Drives. Lawrence Berkeley National Laboratory. LBNL Report #: LBL–25080. Retrieved from *https://escholarship.org/uc/item/41z9k3q3.*

into a single metric may limit a consumer's ability to recognize the mode-specific performance and compare performance with room ACs that only provide cooling, and may lead to a reduction in cooling mode efficiency. 85 FR 35700, 35726 (Jun. 11, 2020).

AHAM supported DOE's proposal, noting that there are insufficient data to support developing a test to measure heating mode as current data suggest it is not a significant operating mode for room ACs. AHAM stated that national, statistically significant consumer use data must be used to justify changes in order to satisfy the requirements of the Data Quality Act. In urging DOE to adopt AHAM RAC–1–2020 (formerly AHAM RAC–1–2019), which does not include a heating mode test, AHAM further agreed with DOE's proposal. (AHAM, Public Meeting Transcript, No. 12 at pp. 9–10; AHAM, No. 13 at pp. 2, 7)

For the reasons discussed, and in the June 2020 NOPR, DOE is not establishing a heating mode test procedure for room ACs in appendix F.

3. Off-Cycle Mode

Single-speed room ACs typically operate with a compressor on-off control strategy, where the compressor runs until the room temperature drops below a consumer-determined setpoint, then ceases to operate (*i.e.,* the unit operates in off-cycle mode [39]) until the room temperature rises above the setpoint, at which time the compressor starts again. The points at which the compressor stops and restarts depend on the setpoint temperature defined by the user and the deadband [40] programmed by the manufacturer. During the period in which the compressor remains off (*i.e.,* off-cycle mode), the fan may operate in different ways depending on manufacturer implementation: (1) The fan ceases operation entirely; (2) the fan continues to operate for a short period of time after the setpoint is reached and then stops until the compressor is reactivated; (3) the fan continues to operate continuously for a short period of time, after which it cycles on and off periodically until the compressor is reactivated; or (4) the fan continues to operate continuously until the compressor is reactivated.[41]

In the June 2020 NOPR, DOE did not propose a definition or test procedure for off-cycle mode. 85 FR 35700, 35728 (Jun. 11, 2020) Through investigative testing, DOE found that average power use in off-cycle mode was relatively low (*i.e.,* approximately 10 percent or less) compared to the average power used in cooling mode. *Id.* Thus, DOE initally determined that the additional 2-hour test burden that would be required to establish a test procedure for off-cycle mode would outweigh the benefits of measuring off-cycle mode power for room ACs. *Id.*

AHAM agreed with DOE's proposal, commenting that EPCA requires test procedures to measure only a representative average use cycle/period of use, not every possible mode. AHAM further commented that the cooling cycle continues to be the most representative average use cycle for this purpose, with no data on the prevalence of consumer use of off-cycle mode. (AHAM, No. 13 at p. 7)

The California IOUs, the Joint Commenters, and NEAA disagreed with DOE's proposal, stating the exclusion of off-cycle mode testing would result in non-representative efficiency ratings. (California IOUs, No. 14 at pp. 4–5; Joint Commenters, No. 15 at p. 3; NEAA, No. 16 at pp. 3–4) The California IOUs commented that ENERGY STAR finds off-cycle power consumption sufficiently important to require qualifying room ACs to enable Energy Saver Mode (''ESM'') by default when the unit is switched on. The California IOUs expressed concern that assuming all room ACs typically operate in ESM may be unwarranted. (California IOUs, No. 14 at pp. 4–5) The Joint Commenters commented that room AC units with continuous fan operation can consume close to 240 kilowatt-hours per year of energy in off-cycle mode alone, pointing to its prevalence and importance in testing. (Joint Commenters, No. 15 at p. 3) NEAA stated that, while more data are needed on the number of hours spent in off-cycle and recirculation mode, these modes have the potential to account for a significant percentage of annual energy use. For example, NEAA commented that if a unit in the 6,000–7,900 Btu/h capacity range spent 25 percent of the amount of time in the off-cycle mode than it does in compressor mode (*i.e.,* 187.5 hours, DOE estimates 750 compressor hours per year on average), the off-cycle mode would account for 9 percent of annual energy use for an average continuous operation fan. NEAA further commented that if this same room AC spent the same number of hours in off-cycle hours as in compressor mode, the off-cycle mode would account for 37 percent of its annual energy use. (NEAA, No. 16 at pp. 3–4) The California IOUs, the Joint Commenters, and NEAA urged DOE to capture off-cycle mode power consumption, including fan operation, to provide a better representation of actual efficiency in the field and more accurate information to consumers. (California IOUs, No. 14 at pp. 4–5; Joint Commenters, No. 15 at p. 3; NEAA, No. 16 at pp. 3–4) The California IOUs specifically requested that DOE investigate consumer use of ESM compared to always-on fan operation modes, and determine the proportion of operating hours where the fan runs with the compressor off in order to accurately determine average power consumption during off-cycle mode and to include that power consumption in the test procedure. The California IOUs also requested that DOE create a definition for ''off-cycle mode''. (California IOUs, No. 14 at pp. 4–5)

EPCA requires that the test procedures be reasonably designed to produce test results which measure the energy efficiency of room air conditioners during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(2)) EPCA does not require the test procedure to evaluate every mode of operation. DOE notes that there are insufficient available data on the amount of time room ACs spend in off-cycle mode to support a conclusion that a test procedure capturing such operation would be representative of an average use cycle. Furthermore, as discussed in the June 2020 NOPR, DOE found that energy consumption in off-cycle mode was relatively low, approximately 10 percent or less, of the power used during cooling mode. 85 FR 35700, 35728 (Jun. 11, 2020). While DOE understands that units with continuous fan modes during off-cycle mode may consume a higher percentage of energy relative to cooling mode, the units in DOE's test sample that operated the fan continuously during off-cycle mode were older models which are no longer in production and are not likely prevalent on the market.

Because of the lack of data regarding operation in off-cycle, DOE is not adopting test procedures to address this mode.

[39] ''Off-cycle mode'' is distinct from ''off mode,'' in which a room AC not only ceases compressor and fan operation but also may remain in that state for an indefinite time, not subject to restart by thermostat or temperature sensor signal.

[40] The term ''deadband'' refers to the range of ambient air temperatures around the setpoint for which the compressor remains off, and above which cooling mode is triggered on.

[41] Unlike air circulation mode, off-cycle mode is not user-initiated and only occurs when the ambient temperature has satisfied the setpoint.

F. Standby Modes and Off Mode

Section 1.5 of appendix F defines inactive mode as a mode that facilitates the activation of active mode by remote switch (including by remote control) or internal sensor, or provides continuous status display. Section 1.6 of appendix F defines off mode as a mode distinct from inactive mode in which a room AC is connected to a mains power source and is not providing any active or standby mode function and where the mode may persist for an indefinite time. An indicator that only shows the user that the product is in the off position is included within the classification of an off mode. Section 1.7 of appendix F defines standby mode as any mode where a room AC is connected to a mains power source and offers one or more of the following user-oriented or protective functions which may persist for an indefinite time: (a) To facilitate the activation of other modes (including activation or deactivation of active mode) by remote switch (including remote control), internal sensor, or timer; or (b) continuous functions, including information or status displays (including clocks) or sensor-based functions.

1. Referenced Standby Mode and Off Mode Test Standard

In the January 2011 Final Rule, DOE amended the room AC test procedure by incorporating provisions from IEC Standard 62301 First Edition for measuring standby mode and off mode power. 76 FR 971, 979–980 (Jan. 6, 2011). At that time, DOE reviewed the IEC Standard 62301 First Edition and concluded that it would generally apply to room ACs, with some clarifications, including allowance for testing standby mode and off mode in either the test chamber used for cooling mode testing, or in a separate test room that meets the specified standby mode and off mode test conditions. 76 FR 971, 986.

On January 27, 2011, IEC published IEC Standard 62301 Second Edition, an internationally accepted test procedure for measuring standby power in residential appliances, which included various clarifications to IEC Standard 62301 First Edition. Provisions from IEC Standard 62301 Second Edition are currently referenced in DOE test procedures for multiple consumer products for which standby mode and off mode energy use are measured (*e.g.,* dehumidifiers, portable ACs, dishwashers, clothes washers, clothes dryers, conventional cooking products, microwave ovens).

Based on its previous determinations for similar consumer products, DOE has determined that use of IEC Standard 62301 Second Edition for measuring the standby mode and off mode energy use for room ACs would improve the accuracy and representativeness of the test measurements and would not be unduly burdensome, compared to IEC Standard 62301 First Edition. 80 FR 45801, 45822 (Jul. 31, 2015); 81 FR 35241, 35242 (Jun. 1, 2016); 77 FR 65942, 55943 (Oct. 31, 2012); 80 FR 46729, 46746 (Aug. 5, 2015); 78 FR 49607, 49609 (Aug. 14, 2013); 85 FR 50757, 50758 (Aug. 8, 2020); 78 FR 4015, 4016 (Jan. 18, 2013). Accordingly, DOE references relevant paragraphs of IEC Standard 62301 Second Edition in appendix F in place of those from IEC Standard 62301 First Edition, as follows:

a. Power Measurement Uncertainty

In the June 2020 NOPR, DOE proposed to reference the power equipment specifications from Section 4.4 of IEC Standard 62301 Second Edition for determining standby mode and off mode power in appendix F. 85 FR 35700, 35729 (Jun. 11, 2020). DOE received no comments on these proposals from the June 2020 NOPR. For the reasons discussed on the June 2020 NOPR and in this document, DOE is requiring in this final rule that the power equipment specifications from Section 4.4 of IEC Standard 62301 Second Edition be used for determining standby mode and off mode power in appendix F.

b. Power Consumption Measurement Procedure

In the June 2020 NOPR, DOE proposed to adopt through reference the sampling method from Section 5.3.2 of IEC Standard 62301 Second Edition to determine standby mode and off mode average power in appendix F. DOE initially determined the proposed update to the sampling method for all standby mode and off mode testing would not increase test burden, because power meters that can measure, store, and output readings at the required proposed sampling rate and accuracy for the sampling method are already widely used by test laboratories. DOE also initially determined that the power consumption measured with the sampling method would not substantively vary from that measured with the direct meter or average reading methods. 85 FR 35700, 35729 (Jun. 11, 2020).

DOE received no comments on the proposal discussed above. For the reasons discussed on the June 2020 NOPR and in this document, DOE is adopting and referencing the sampling method from Section 5.3.2 of IEC Standard 62301 Second Edition to determine standby mode and off mode average power in appendix F.

G. Network Functionality

Network functionality on room ACs may enable functions such as communicating with a network to provide real-time information on the temperature conditions in the room or receiving commands via a remote user interface such as a smartphone. DOE has observed that network features on room ACs are designed to operate in the background while the room AC performs other functions. These network functions may operate continuously during all operating modes, and therefore may impact the power consumption in all operating modes.

DOE declined to adopt provisions to account for energy consumption associated with network functionality in the January 2011 Final Rule due to the lack of information about room ACs with network functionality. 76 FR 971, 983–984 (Jan. 6, 2011). On September 17, 2018, DOE published a request for information (''RFI'') on the emerging smart technology appliance and equipment market. 83 FR 46886. In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment.

In the June 2020 NOPR, DOE requested comment on the same issues presented in the emerging smart technologies RFI, as they may be applicable to room ACs and on the proposal to specify that all network or connectivity settings must be disabled during testing. 85 FR 35700, 35730 (Jun. 11, 2020).

AHAM and GEA supported DOE's proposal to test units with network capabilities with network settings disabled for all operating modes. AHAM noted this proposal is in accordance with AHAM RAC–1–2020, AHAM commented that there is not yet adequate consumer use data to justify amending the room AC test procedure. AHAM further stated that they are aware that some consumers do not even connect their network-enabled appliances to use the available features. AHAM recommended that DOE ensure that the room AC test procedure does not prematurely address new designs

which may not yet have an average use or be in common use, which could stifle innovation. Similarly, GEA commented that regulating the already small energy consumption of connected features risks stifling innovation, including the further development of energy saving features. (AHAM, No. 13 at pp. 8; GEA at No. 18, pp. 2) GEA reiterated these sentiments in comments on the energy conservation standards (''ECS'') Preliminary Analysis. (GEA, Preliminary Analysis, No. 26 at p. 2)

ASAP, the Joint Commenters, and NEAA expressed concern that testing units with network capabilities with network settings disabled for all operating modes would significantly underrepresent energy consumption. They asserted that this would result in non-representative efficiency ratings. ASAP commented that units with network capabilities may consume additional power continuously in all operating modes. (ASAP, Public Meeting Transcript, No. 12 at pp. 12, 80–81; Joint Commenters, No. 15 at p. 3; NEAA, No. 16 at pp. 5–6)

As stated in the June 2020 NOPR, DOE is not aware of any data regarding how often consumers use these features or how much energy the features consume during an average representative use cycle, and commenters did not provide any such data. Absent consumer usage data, DOE is unable at this time to evaluate potential test procedure provisions related to network capabilities.

Similarly, DOE declined to adopt provisions to account for energy consumption associated with network functionality in the January 2011 Final Rule due to the lack of information about room ACs with network functionality. 76 FR 971, 983–984 (Jan. 6, 2011). The test procedure adopted, however, did not affirmatively require that network capabilities of units under test be disabled. As a result, due to the growth in the number of network-enabled models of room ACs on the market, it has become increasingly likely that the test procedure adopted in January 2011 Final Rule may unintentionally capture energy use attributable to network functions. The amendment adopted in this rule precludes this possibility by reinforcing the intent of the January 2011 Final Rule.

While there are a number of connected room ACs on the market with varying implementations of connected features, DOE is not aware of any data available, nor did interested parties provide any such data, regarding the consumer use of connected features. Without this data, DOE is unable to establish a representative test configuration for assessing the energy consumption of connected functionality for room ACs. DOE therefore maintains its proposal to test room ACs with network capabilities disabled. DOE is specifying in Section 3.1.4 of appendix F that units with network capabilities must be tested with the network settings disabled, and that those network settings remain disabled for all tested operating modes (*i.e.,* cooling mode, standby mode, and off mode).

H. Demand Response

The current U.S. Environmental Protection Agency's (''EPA's'') ENERGY STAR Product Specification for Room Air Conditioners Version 4.1 [42] specifies optional criteria for room ACs designed to provide additional functionality to consumers, such as alerts and messages, remote control and energy information, as well as demand response (''DR'') capabilities, which support the inclusion of room ACs in smart grid applications (hereafter ''connected room ACs''). These capabilities are network capabilities, as they require the room AC maintain communication continuously or intermittently with a server; however, DR functionality is a unique subset that enables smart grid communication and active modified operation in response to DR signals from an electric utility.

On June 7, 2017, DOE and EPA published the final ENERGY STAR Program Requirements Product Specification for Room Air Conditioners: Test Method to Validate Demand Response (hereafter the ''June 2017 ENERGY STAR Test Method''). This test method validates that a unit complies with ENERGY STAR's DR requirements, which are designed to reduce energy consumption upon receipt of a DR signal. However, DOE notes that the June 2017 ENERGY STAR Test Method does not measure the total energy consumption or average power while a unit responds to a DR signal. DOE noted in the June 2020 NOPR that no connected room ACs were available at that time on the market that complied with the full set of ENERGY STAR Version 4.1 connected criteria, and therefore, the energy consumption could not be determined for a range of products and manufacturers. 85 FR 35700, 35731 (Jun. 11, 2020). DOE also stated that there is little available information indicating the frequency of received DR signals that are specified in the ENERGY STAR connected criteria, and as a result, it is not possible to determine annual energy use attributed to DR signals. *Id.* Given the issues raised in the September 17, 2018 emerging smart technologies RFI, the lack of available connected room ACs on the market, and the lack of energy consumption and usage data regarding the DR signals, DOE did not propose to amend its room AC test procedure to measure energy consumption while a connected room AC is responding to a DR signal. *Id.*

AHAM supported DOE's proposal, stating that products are continuously evolving with new features and with greater functionality. AHAM stated that these new features, including connectivity, are in the early stages of development and consumers are only beginning to use and understand them. AHAM commented that there are not yet adequate consumer use data to justify amending the room AC test procedure to include energy consumption while a connected room AC responds to a DR signal. AHAM further commented that consumer use and understanding of new technologies continues to evolve and to inform manufacturers' designs. As DOE evaluates potential changes, AHAM recommended that DOE be mindful that it will take time before many new features, designs, and technologies lend themselves to a ''representative average'' consumer use. AHAM further recommended that DOE ensure that the room AC test procedure does not prematurely address new designs which may not yet have an average use or be in common use, as doing so could stifle innovation. (AHAM, No. 13 at p. 8) AHAM reiterated these points in comments on the ECS Preliminary Analysis. (AHAM, Preliminary Analysis, No. 19 at pp. 15–16)

DOE continues to find that there are insufficient consumer usage data to support amending the room AC test procedure to include connected energy consumption, and that the test procedure should not prematurely address new technologies absent sufficient average use data. Therefore, DOE is not amending the DOE test procedure for room ACs to include energy consumption while a connected room AC responds to a DR signal.

I. Combined Energy Efficiency Ratio

The room AC energy efficiency metric, CEER, accounts for the cooling provided by the room AC in cooling mode as a function of the total energy consumption in cooling mode and inactive mode or off mode. In the June 2020 NOPR, DOE proposed to maintain

[42] The ENERGY STAR Certification Criteria V4.1 is available at *https://www.energystar.gov/sites/default/files/ENERGY%20STAR%20Version%204.0%20Room%20Air%20Conditioners%20Program%20Requirements.pdf.*

the current CEER calculations for single-speed room ACs, given the proposals discussed above. 85 FR 35700, 35731 (Jun. 11, 2020).

AHAM supported DOE's proposal to maintain the current CEER calculations for single-speed room ACs, stating that there was no need to or justification for amending the CEER calculations at this time. (AHAM, No. 13 at p. 8).

NEAA supported implementing a seasonal metric for all room ACs that would represent the performance at multiple outdoor temperature conditions, similar to the seasonal energy efficiency ratio (''SEER'') metric used for central air conditioners. NEAA suggested that in the near-term to reduce test burden, single-speed equipment should be allowed to use the current test procedure and to calculate a seasonal rating using a PAF. NEAA recommended that DOE maintain the peak CEER metric as a voluntary reporting metric. NEAA noted that this peak-load efficiency can continue to be used by utility programs and energy modelers but would not be the basis for energy conservation standards. (NEAA, No. 16 at p. 3; *see also* NEAA, Preliminary Analysis, No. 24 at pp. 3–4)

DOE is not amending the energy efficiency metric for room ACs. While DOE recognizes the utility of a single test approach for all room ACs, as discussed in section III.E.1 of this document, DOE has determined that testing single-speed room ACs at multiple outdoor temperature conditions would result in an unwarranted increase in test burden on manufacturers. While this increase in test burden could be mitigated using NEEA's suggestion to test single-speed room ACs using the current test procedure and applying a PAF, DOE notes that this approach would require the recertification of all room ACs currently on the market, and for most models would likely change the cooling capacity and efficiency, both of which are metrics that are familiar to consumers and are used as a basis for purchasing decisions. Thus, a fundamental change to the cooling capacity and CEER metric, by adopting multiple test conditions or applying an adjustment factor for all single-speed room ACs would result in recertification costs and potential consumer confusion. Based on this reasoning, DOE is proceeding with its proposal to maintain the current CEER calculations for single-speed room ACs.

J. Certification and Verification Requirements

In the June 2020 NOPR, DOE proposed to update the sampling plan and certification reporting requirements in 10 CFR 429.15(a)(2)(ii) and (b)(2) to conform the current metric by requiring the reporting of the CEER metric and to remove references to the previous performance metric, EER. 85 FR 35700, 35731(Jun. 11, 2020). For variable-speed room ACs, DOE proposed to require additional reporting of cooling capacity and electrical input power for each of the three additional test conditions as part of a supplemental PDF that would be referenced within the manufacturer's certification report. *Id.* DOE received no comments on the proposed changes to 10 CFR 429.15. DOE is amending the certification requirements as proposed to conform the reporting requirements to the current CEER metric and removing references to the previous performance metric, EER. For variable-speed room ACs, DOE requires the additional reporting of cooling capacity and electrical input power for each of the three additional test conditions as part of a supplemental PDF that would be referenced within the manufacturer's certification report.

K. Reorganization of Calculations in 10 CFR 430.23

Previously, 10 CFR 430.23(f) contained instructions for determining a room AC's estimated annual operating cost, with calculations described for the average annual energy consumption, combined annual energy consumption, EER, and CEER.

In the June 2020 NOPR, DOE proposed to remove the obsolete EER calculation. 85 FR 35700, 35731 (Jun. 11, 2020).

The California IOUs expressed concern with DOE removing the EER calculation and metric, as doing so would prevent manufacturers from showing information if they so choose. The California IOUs supported its removal as long as DOE continues to require reporting of the full-load capacity and power consumption, which is a substitute for EER. With the retention of the full-load capacity and power consumption metrics, the California IOUs stated that consumers are unlikely to be harmed, as knowing power consumption and efficiency at full load is essential to consumers in hot climates. Alternatively, the California IOUs recommended that DOE require reporting of the EER metric in the Compliance Certification Management System (''CCMS'') database, but that it not be the metric for energy conservation standards. (California IOUs, Public Meeting Transcript, No. 12 at pp. 72–75) AHAM commented that everything that is recorded is an additional burden and, in this case, continuing to report the EER metric in the CCMS database would be an unnecessary, additional burden. (AHAM, Public Meeting Transcript, No. 12 at p. 74)

DOE agrees that requiring manufacturers to report the EER metric would be an unnecessary, additional burden on manufacturers. DOE also notes that maintaining the EER metric in public-facing materials may be confusing to consumers but that consumers will still have access to similarly important information through the full-load capacity and power consumption metrics that are currently reported to DOE and listed in the CCMS. Therefore, DOE is proceeding with its proposal from the June 2020 NOPR to remove the obsolete EER calculation and maintain the requirement to report full-load capacity and power consumption.

In the June 2020 NOPR, DOE further proposed moving the CEER calculation from 10 CFR 430.23(f) to appendix F, to mitigate potential confusion, harmonize with the approach used for other products, and improve the readability of the calculations previously in 10 CFR 430.23(f) and appendix F. 85 FR 35700, 35731 (Jun. 11, 2020). Similarly, DOE proposed removing the calculations for average annual energy consumption in cooling mode and combined annual energy consumption from 10 CFR 430.23(f) and instead adding calculations for annual energy consumption for each operating mode in appendix F. *Id.* DOE also proposed to include in 10 CFR 429.15(a)(3) through (5),10 CFR 429.15 (b)(3), and 10 CFR 430.23(f) instructions to round cooling capacity to the nearest 100 Btu/h, electrical input power to the nearest 10 W, and CEER to the nearest 0.1 British thermal units per watt-hour (''Btu/Wh''), to provide consistency in room AC capacity, electrical input power, and efficiency representations. *Id.*

In the June 2020 NOPR, DOE similarly proposed to establish instructions in appendix F to round cooling capacity to the nearest 100 Btu/h, electrical input power to the nearest 10 W, and CEER to the nearest 0.1 Btu/Wh, to provide consistency in room AC capacity, electrical input power, and efficiency representations. *Id.* DOE also proposed to revise the estimated annual operating cost calculation to reference the annual energy consumption for each operating mode as calculated in appendix F, as opposed to the annual energy

consumption calculation previously located in 10 CFR 430.23. *Id.*

AHAM understood DOE's proposal to be that rounding would take place on both the tested and reported values and opposed such an approach. AHAM stated that rounding both the tested and reported values would add too much variation; for example, it could add 1 percent error just due to rounding for an 8,000 Btu/h unit. AHAM further commented that there is a significant difference in results if only the mean is rounded versus both the individual test measurements and the mean being rounded. Accordingly, AHAM instead proposed rounding should take place only on the rated values (*i.e.,* the cooling capacity) and that rounding should be to the hundreds of Btu/h because it is clearer to communicate round numbers to retailers and consumers. (AHAM, No. 13 at p. 9)

DOE agrees with AHAM that rounding both the tested and reported values may introduce too much variance in the rated values. In the June 2020 NOPR, DOE proposed to include rounding instructions to provide consistency in room AC capacity, electrical input power, and efficiency representations when conducting the test. 85 FR 35700, 35731 (Jun. 11, 2020). While consistency in rounding between reported values and tested values is important, the accuracy of reported values outweighs concerns about consistency with the rounding for tested values. The proposed rounding instructions at 10 CFR 429.15 will ensure that there is consistency in reported results, while not affecting the accuracy of those reported values. Therefore, DOE is removing the proposed rounding instructions from 10 CFR 430.23(f) but maintaining the rounding instructions proposed in for 10 CFR 429.15.

L. Effective Date, Compliance Date and Waivers

The effective date for the adopted test procedure amendment will be 30 days after publication of this final rule in the **Federal Register**. EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with that amended test procedure, beginning 180 days after publication of the test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer would experience undue hardship in meeting the 180-day deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, a manufacturer must file a petition with DOE no later than 60 days before the end of the 180-day period and detail how the manufacturer will experience undue hardship. *Id.*

Upon the compliance date of test procedure provisions in this final rule any waivers that had been previously issued and are in effect that pertain to issues addressed by such provisions are terminated. 10 CFR 430.27(h)(2) (2020). Recipients of any such waivers are required to test products subject to the waiver according to the amended test procedure as of the compliance date of the amended test procedure. The amendments adopted in this document pertain to issues addressed by waivers and interim waivers granted to LG (Case No. 2020–011), Midea (Case No. 2020–017), and GEA (Case No. 2020–004). This final rule also addresses issues identified in pending waivers for Danby (Case No. 2020–019),[43] Electrolux (Case No. 2020–016),[44] MARS (Case No. 2020–021),[45] and Perfect Aire (Case No. 2020–018).[46] Per 10 CFR 430.27(l), the publication of this final rule eliminates the need for the continuation of granted waivers. Publication of this final rule also eliminates the need for the pending petitions for waivers which have been requested for certain room AC models with variable-speed capabilities, as this final test procedure incorporates testing and certification requirements for variable-speed room ACs. However, these petitions are in ''pending'' status until DOE communicates a denial to the petitioners.

M. Test Procedure Costs, Impacts, and Other Topics

1. Test Procedure Costs and Impacts

In this document, DOE amends the existing test procedure for room ACs by: (1) Referencing current versions of industry standards, as appropriate; (2) including test provisions to reflect the relative performance improvements for variable-speed room ACs compared to single-speed room ACs, including tests at multiple temperature conditions, based on the alternate test procedure from recent waivers; (3) updating definitions in support of the provisions for testing variable-speed room ACs, to ensure the test procedure is self-contained, reflects existing test procedure terminology, and distinguishes between variable-speed and single-speed units; and (4) incorporating specifications and minor corrections to improve the test procedure repeatability, reproducibility, and overall readability. DOE has determined that the test procedure as amended by this final rule will not be unduly burdensome for manufacturers to conduct.

Further discussion of the cost impacts of the test procedure amendments are presented in the following paragraphs.

Appendix F

This final rule generally adopts the latest industry standard test procedure, AHAM RAC–1–2020, for determining the CEER for variable-speed room ACs, consistent with the procedure prescribed in the test procedure waivers. There are 10 basic models (four from LG and six from Midea) currently on the market subject to the test procedure waivers for variable-speed room ACs. 84 FR 20111 (May 8, 2019); 85 FR 31481 (May 26, 2020). DOE expects that as many as 18 additional basic models will soon be introduced to the market subject to the GEA interim waiver for their variable-speed room ACs. 85 FR 59770 (Sep. 23, 2020). However, the final rule differs from those waivers in that it requires the use of fixed temperature conditions with a unit setpoint of 75 °F when testing at the 92 °F and 95 °F outdoor conditions, and therefore, the 28 variable-speed room AC basic models identified by DOE would need to be re-tested and re-certified according to this final rule. DOE did not identify any other manufacturers currently producing variable-speed room ACs that are sold in the United States.

DOE estimates that it would require approximately 8 hours for manufacturers to conduct a variable-speed test for a room AC unit, as specified in this final rule. Additionally, DOE requires that at least two units must be tested per basic model. Therefore, a manufacturer would spend approximately 16 hours to test one variable-speed room AC basic model. DOE used the wage rate of a mechanical engineering technician from the Bureau of Labor Statistics (''BLS'') to estimate the wage rate of an employee performing these tests.[47] Additionally,

[43] The Danby waiver docket can be found at *https://beta.regulations.gov/docket/EERE-2020-BT-WAV-0036/document.*

[44] The Electrolux waiver docket can be found at *https://beta.regulations.gov/document/EERE-2020-BT-WAV-0033-0001.*

[45] The MARS waiver docket can be found at *https://beta.regulations.gov/docket/EERE-2020-BT-WAV-0038/document.*

[46] The Perfect Aire waiver docket can be found at *https://beta.regulations.gov/docket/EERE-2020-BT-WAV-0034.*

[47] Based on data from BLS's May 2019 publication of the ''Occupational Employment and Wages,'' the mean hourly wage for mechanical

Continued

DOE used data from the BLS to estimate the percent of wages that account for the total employee compensation.[48] Using data from these sources, DOE estimates the hourly employer cost of an employee performing these test to be approximately $40.63.[49] Using these estimates, DOE determines that there will be a one-time cost of approximately $18,202 for the 28 variable-speed room AC basic models to be re-tested.[50]

In addition to the re-testing costs, DOE estimates these three manufacturers may have to re-certify their variable-speed room AC basic models to DOE. DOE estimates that manufacturers spend approximately 35 hours per manufacturer to submit a certification report to DOE, which may contain multiple models per report. DOE used an hourly wage rate of $100 for an employee to complete this certification report.[51] Therefore, DOE estimates that the three manufacturers would spend approximately $10,500 to re-certify their variable-speed room AC basic models.[52]

Additional Amendments

The additional amendments adopted in this final rule (*e.g.,* those applicable to the test procedure for single-speed room ACs) will not alter the measured energy efficiency as compared to the previous test procedure. The manufacturers of single-speed room ACs are able to continue relying on data generated under the previous test procedure for single-speed room ACs. The remainder of the amendments adopted in this final rule are as follows and will not impact test costs or results: (i) Modify the room AC definition in 10 CFR 430.2; (ii) adopt new definitions in appendix F for ''cooling mode,'' ''cooling capacity,'' ''combined energy efficiency ratio,'' and ''single-speed room air conditioner;'' (iii) update reference to ANSI/ASHRAE Standard 16 to the most current 2016 version, which includes additional clarification on best practices for air sampler and thermocouple placement; (iv) specify in appendix F that non-louvered room ACs, which are designed for through-the-wall installation, must be installed using a compatible wall sleeve (per manufacturer instructions), with a provided or manufacturer-required rear grille, and with only the included trim frame and other manufacturer-provided installation materials; (v) require that the power equipment specifications from Section 4.4 of IEC Standard 62301 Second Edition be used for determining standby mode and off mode power in appendix F; (vi) adopt and reference the sampling method from Section 5.3.2 of IEC Standard 62301 Second Edition to determine standby mode and off mode average power in appendix F; (vii) modify the certification requirements to conform the reporting requirements to the current CEER metric, and remove references to the previous performance metric, EER; and (viii) remove the proposed rounding instructions from the edits made to 10 CFR 430.23(f) but maintain the rounding instructions proposed in for 10 CFR 429.15.

The amendments described above update referenced standards, modify or add definitions, and provide further instructions and clarification to the existing test procedures, and thus have no impact on testing cost.

2. Other Test Procedure Topics

In this final rule, DOE is adopting a number of modifications to the Federal room AC test procedure to clarify provisions where the applicable industry consensus standard may either be silent or not fully address the matter in question. DOE has determined that the modifications are necessary so that the DOE test method satisfies the requirements of EPCA.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that this test procedure rulemaking does not constitute a ''significant regulatory action'' under section 3(f) of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (''FRFA'') for any final rule where the agency was first required by law to publish a proposed rule for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed this adopted rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. The final rule prescribes amended test procedures to measure the energy consumption of room ACs in cooling mode, standby modes, and off mode. DOE concludes that this final rule will not have a significant impact on a substantial number of small entities, and the factual basis for this certification is set forth in the following paragraphs.

The Small Business Administration (''SBA'') considers a business entity to be small business, if, together with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes are established by the North American Industry Classification System (''NAICS'') and are available at *https://www.sba.gov/document/support--table-size-standards.* Room AC manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. DOE used DOE's Compliance Certification Database to create a list of companies that sell room ACs covered by this rulemaking in the United States. Additionally, DOE surveyed the AHAM member directory to identify manufacturers of room ACs. DOE then consulted other publicly available data, purchased company reports from vendors such as Dun and Bradstreet,

engineering technologists and technicians is $28.44. See: *https://www.bls.gov/oes/current/oes173027.htm.* Last Accessed on November 12, 2020.

[48] Based on data from BLS's June 2020 publication of the ''Employer Costs for Employee Compensation,'' wages and salary are 70.0 percent of the total employer costs for a private industry worker. See: *https://www.bls.gov/bls/news-release/ecec.htm#2020.* Last Accessed on November 12, 2020.

[49] $28.44/0.700 = $40.63

[50] 28 (number of variable-speed room AC basic models potentially requiring re-testing) × 2 (units tested per basic model) × 8 (hours per test for variable-speed room ACs) × $40.63 (fully burdened hourly labor rate of employee performing the tests) = $18,202.24

[51] The 35-hour estimate and the $100 hourly wage estimate are based on information from 82 FR 57240; 57242 (December 4, 2017).

[52] 3 (number of manufacturers with variable-speed room ACs) × 35 (hours per certification report) × $100 (hourly labor rate) = $10,500.

and contacted manufacturers, where needed, to determine if they meet the SBA's definition of a ''small business manufacturing facility'' and have their manufacturing facilities located within the United States. Based on this analysis, DOE did not identify any small businesses that currently manufacture room ACs in the United States. DOE requested comment on its initial determination that there are no small businesses that manufacture room ACs in the United States. 85 FR 35700, 35733 (Jun. 11, 2020). DOE received no comment on this issue.

Because DOE did not identify any small businesses that manufacture room ACs in the United States, DOE concludes that the impacts of the test procedure amendments adopted in this final rule will not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an FRFA is not warranted.

DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of room ACs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including room ACs. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, Appendix A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and meets the requirements for application of a CX. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an EA or EIS.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan

for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, *Improving Implementation of the Information Quality Act* (April 24, 2019), DOE published updated guidelines which are available at *https://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The modifications to the test procedure for room ACs adopted in this final rule incorporates testing methods contained in certain sections of the following commercial standards: AHAM RAC–1–2020, ANSI/ASHRAE Standard 16–2016, ANSI/ASHRAE Standard 41.1–2013, ANSI/ASHRAE Standard 41.2–1987 (RA 1992), ANSI/ASHRAE Standard 41.3–2014, ANSI/ASHRAE Standard 41.6–2014, ANSI/ASHRAE Standard 41.11–2014, and IEC Standard 62301 Second Edition. DOE has evaluated these standards and is unable to conclude whether it fully complies with the requirements of section 32(b) of the FEAA (*i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

N. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference the industry standard published by AHAM, titled ''AHAM RAC–1–2020, 'Room Air Conditioners' (AHAM RAC–1–2020).'' AHAM RAC–1–2020 establishes standard methods for measuring performance and includes sections on definitions, test conditions, tests for standard measurements, performance tests, and safety which apply to room air conditioners.

Copies of AHAM RAC–1–2020 can be purchased from the Association of Home Appliance Manufacturers at 1111 19th Street NW, Suite 402, Washington, DC 20036, 202–872–5955, or by going to *http://www.aham.org.*

In this final rule, DOE incorporates by reference the industry test standard published by ASHRAE, titled ''ANSI/ASHRAE 16–2016 (''ANSI/ASHRAE 16–2016''), Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners.'' The amendments in this final rule include updated general references to ANSI/ASHRAE Standard 16–2016, that address all areas of testing including installation, test setup, instrumentation, test conduct, data collection, and calculations. Specifically, the test procedure codified by this final rule references section 5.6.2 ''Electrical Instruments'' of ANSI/ASHRAE 16–

2016, which provides requirements of accuracy for instruments used for measuring all electrical inputs to the calorimeter compartments.

In this final rule, DOE incorporates by reference the industry test standards published by ASHRAE, titled ''Standard Method for Temperature Measurement,'' ANSI/ASHRAE Standard 41.1–2013, ''Standard Methods for Air Velocity and Airflow Measurement,'' ANSI/ASHRAE Standard 41.2–1987 (RA 1992), ''Standard Methods for Pressure Measurement,'' ANSI/ASHRAE Standard 41.3–2014, ''Standard Methods for Humidity Measurement,'' ANSI/ASHRAE Standard 41.6–2014, and ''Standard Methods for Power Measurement,'' ANSI/ASHRAE Standard 41.11–2014. These standards are industry-accepted test procedures that prescribe methods and instruments for measuring temperature, air velocity, pressure, humidity, and power, respectively. These standards are cited by ANSI/ASHRAE Standard 16–2016, which this final rule incorporates by reference.

Copies of the ASHRAE Standards may be purchased from the American Society of Heating and Air-Conditioning Engineers at 1255 23rd Street NW, Suite #825, Washington, DC 20037, (202) 833–1830, or by going to *https://webstore.ansi.org/.*

In this final rule, DOE incorporates by reference the industry standard by IEC, titled ''IEC 62301 Household electrical appliances—Measurement of standby power,'' (Edition 2.0, 2011–01) for appendix F. Specifically, the test procedure codified by this final rule references Section 5, Paragraph 5.3.2 ''Sampling Method'' of IEC 62301, which provides test conditions, testing equipment, and methods for measuring standby mode and off mode power consumption, and Section 4.4 ''Power measuring instruments'' of IEC 62301, which provides specifications for determining standby mode and off mode power in appendix F. The amendments in this final rule include updating general references to IEC 62301 from the First Edition to the Second Edition and adopting a new standby power test approach.

Copies of IEC Standard 62301 may be purchased from the International Electrotechnical Commission at 3 rue de Varembé, P.O. Box 131, CH–1211, Geneva 20, Switzerland, or by going to *https://webstore.iec.ch/* and *http://www.webstore.ansi.org.*

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Signing Authority

This document of the Department of Energy was signed on March 8, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 11, 2021.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE amends parts 429 and 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 429.15 is amended by:

■ a. Removing the words ''energy efficiency ratio'' in paragraph (a)(2)(ii) and adding in its place the words ''combined energy efficiency ratio (CEER) (determined in § 430.23(f)(3) for each unit in the sample)'';

■ b. Adding paragraphs (a)(3), (4), and (5);

■ c. Revising paragraph (b)(2); and

■ d. Adding paragraph (b)(3).

The additions and revision read as follows:

§ 429.15 Room air conditioners.

(a) * * *

(3) The cooling capacity of a basic model is the mean of the measured cooling capacities for each tested unit of the basic model, as determined in § 430.23(f)(1) of this chapter. Round the cooling capacity value to the nearest hundred.

(4) The electrical power input of a basic model is the mean of the measured electrical power inputs for each tested unit of the basic model, as determined in § 430.23(f)(2) of this chapter. Round the electrical power input to the nearest ten.

(5) Round the value of CEER for a basic model to one decimal place.

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The combined energy efficiency ratio in British thermal units per Watt-hour (Btu/Wh)), cooling capacity in British thermal units per hour (Btu/h), and the electrical power input in watts (W).

(3) Pursuant to § 429.12(b)(13), a certification report for a variable-speed room air conditioner basic model must include supplemental information and instructions in PDF format that include—

(i) The mean measured cooling capacity for the units tested at each additional test condition (*i.e.,* respectively, the mean of $Capacity_2$, $Capacity_3$, and $Capacity_4$, each expressed in Btu/h and rounded to the nearest 100 Btu/h, as determined in accordance with section 4.1.2 of appendix F of subpart B of part 430 of this chapter);

(ii) The mean electrical power input at each additional test condition (respectively, the mean of $Power_2$, $Power_3$, and $Power_4$, each expressed in W and rounded to the nearest 10 W, as determined in accordance with section 4.1.2 of appendix F of subpart B of part 430 of this chapter); and

(iii) All additional testing and testing set up instructions (*e.g.,* specific operational or control codes or settings) necessary to operate the basic model under the required conditions specified by the relevant test procedure.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.2 is amended by revising the definition of ''Room air conditioner'' to read as follows:

§ 430.2 Definitions.

* * * * *

Room air conditioner means a window-mounted or through-the-wall-mounted encased assembly, other than a ''packaged terminal air conditioner,'' that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for ventilating and heating.

* * * * *

■ 5. Section 430.3 is amended by:
■ a. Revising paragraph (g)(1);
■ b. In paragraph (g)(6), removing ''appendix X1'' and adding in its place ''appendices F and X1'';
■ c. Redesignating paragraphs (g)(11) through (14) as (g)(15) through (18), respectively;
■ d. Redesignating paragraphs (g)(9) as (g)(12) and (g)(10) as (g)(13);
■ e. Redesignating paragraph (g)(8) as (g)(9);
■ f. Adding new paragraphs (g)(8), (10), (11), and (14);
■ g. Revising paragraph (i)(6);
■ h. In paragraph (o)(5), removing ''appendix F, and''; and
■ i. In paragraph (o)(6), adding ''F,'' before ''G''.

The revisions and additions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(g) * * *

(1) ANSI/ASHRAE Standard 16–2016 (''ANSI/ASHRAE 16''), Method of Testing for Rating Room Air Conditioners, Packaged Terminal Air Conditioners, and Packaged Terminal Heat Pumps for Cooling and Heating Capacity, ANSI approved November 1, 2016, IBR approved for appendix F to subpart B.

* * * * *

(8) ANSI/ASHRAE Standard 41.2–1987 (RA 92), (''ASHRAE 41.2–1987 (RA 1992)''), Standard Methods for Laboratory Airflow Measurement, ANSI reaffirmed April 20, 1992, IBR approved for appendix F to subpart B.

* * * * *

(10) ANSI/ASHRAE Standard 41.3–2014, (''ASHRAE 41.3–2014''), Standard Methods for Pressure Measurement, ANSI approved July 3, 2014, IBR approved for appendix F to subpart B.

(11) ANSI/ASHRAE Standard 41.6–2014, (''ASHRAE 41.6–2014''), Standard Method for Humidity Measurement, ANSI approved July 3, 2014, IBR approved for appendix F to subpart B.

* * * * *

(14) ANSI/ASHRAE Standard 41.11–2014, (''ASHRAE 41.11–2014''), Standard Methods for Power Measurement, ANSI approved July 3, 2014, IBR approved for appendix F to subpart B.

* * * * *

(i) * * *

(6) AHAM RAC–1–2020 (''AHAM RAC–1''), Energy Measurement Test Procedure for Room Air Conditioners, approved 2020, IBR approved for appendix F to subpart B.

* * * * *

■ 6. Section 430.23 is amended by revising paragraph (f) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(f) *Room air conditioners.* (1) Determine cooling capacity, expressed in British thermal units per hour (Btu/h), as follows:

(i) For a single-speed room air conditioner, determine the cooling capacity in accordance with section 4.1.2 of appendix F of this subpart.

(ii) For a variable-speed room air conditioner, determine the cooling capacity in accordance with section 4.1.2 of appendix F of this subpart for test condition 1 in Table 1 of appendix F of this subpart.

(2) Determine electrical power input, expressed in watts (W) as follows:

(i) For a single-speed room air conditioner, determine the electrical power input in accordance with section 4.1.2 of appendix F of this subpart.

(ii) For a variable-speed room air conditioner, determine the electrical power input in accordance with section 4.1.2 of appendix F of this subpart, for test condition 1 in Table 1 of appendix F of this subpart.

(3) Determine the combined energy efficiency ratio (CEER), expressed in British thermal units per watt-hour (Btu/Wh) and as follows:

(i) For a single-speed room air conditioner, determine the CEER in accordance with section 5.2.2 of appendix F of this subpart.

(ii) For a variable-speed room air conditioner, determine the CEER in accordance with section 5.3.11 of appendix F of this subpart.

(4) Determine the estimated annual operating cost for a room air conditioner, expressed in dollars per year, by multiplying the following two factors and rounding as directed:

(i) For single-speed room air conditioners, the sum of AEC_{cool} and $AEC_{ia/om}$, determined in accordance with section 5.2.1 and section 5.1, respectively, of appendix F of this subpart. For variable-speed room air conditioners, the sum of AEC_{wt} and $AEC_{ia/om}$, determined in accordance with section 5.3.4 and section 5.1, respectively, of appendix F of this subpart; and

(ii) A representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary. Round the resulting product to the nearest dollar per year.

* * * * *

■ 7. Appendix F to subpart B of part 430 is revised to read as follows:

Appendix F to Subpart B of Part 430–Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners

Note: On or after September 27, 2021, any representations made with respect to the energy use or efficiency of room air conditioners must be made in accordance with the results of testing pursuant to this appendix.

Prior to September 27, 2021, manufacturers must either test room air conditioners in accordance with this appendix, or the previous version of this appendix as it appeared in the Code of Federal Regulations on January 1, 2020. DOE notes that, because representations made on or after September 27, 2021 must be made in accordance with this appendix, manufacturers may wish to begin using this test procedure immediately.

0. Incorporation by Reference

DOE incorporated by reference the entire standard for AHAM RAC–1, ANSI/ASHRAE 16, ANSI/ASHRAE 41.1, ASHRAE 41.2–1987 (RA 1992), ASHRAE 41.3–2014, ASHRAE 41.6–2014, ASHRAE 41.11–2014 and IEC 62301 in § 430.3. However, only enumerated provisions of AHAM RAC–1 and ANSI/ASHRAE 16 apply to this appendix, as follows:

(1) ANSI/AHAM RAC–1:
- (i) Section 4—Testing Conditions, Section 4.1—General
- (ii) Section 5—Standard Measurement Test, Section 5.2—Standard Test Conditions: 5.2.1.1
- (iii) Section 6—Tests and Measurements, Section 6.1—Cooling capacity
- (iv) Section 6— Tests and Measurements, Section 6.2—Electrical Input

(2) ANSI/ASHRAE 16:
- (i) Section 3—Definitions
- (ii) Section 5—Instruments
- (iii) Section 6—Apparatus, Section 6.1—Calorimeters, Sections 6.1.1–6.1.1., 6.1.1.3a, 6.1.1.4–6.1.4, including Table 1
- (iv) Section 7—Methods of Testing, Section 7.1—Standard Test Methods, Section 7.1a, 7.1.1a
- (v) Section 8—Test Procedures, Section 8.1—General
- (vi) Section 8—Test Procedures, Section 8.2—Test Room Requirements

(viii) Section 8—Test Procedures, Section 8.3—Air Conditioner Break-In
(ix) Section 8—Test Procedures, Section 8.4—Air Conditioner Installation
(x) Section 8 —Test Procedures, Section 8.5—Cooling Capacity Test
(xi) Section 9—Data To Be Recorded, Section 9.1
(xii) Section 10—Measurement Uncertainty
(xiii) Normative Appendix A Cooling Capacity Calculations—Calorimeter Test Indoor and Calorimeter Test Outdoor

If there is any conflict between any industry standard(s) and this appendix, follow the language of the test procedure in this appendix, disregarding the conflicting industry standard language.

Scope

This appendix contains the test requirements to measure the energy performance of a room air conditioner.

2. Definitions

2.1 ''Active mode'' means a mode in which the room air conditioner is connected to a mains power source, has been activated and is performing any of the following functions: Cooling or heating the conditioned space, or circulating air through activation of its fan or blower, with or without energizing active air-cleaning components or devices such as ultra-violet (UV) radiation, electrostatic filters, ozone generators, or other air-cleaning devices.

2.2 ''ANSI/AHAM RAC–1'' means the test standard published jointly by the American National Standards Institute and the Association of Home Appliance Manufacturers, titled ''Energy Measurement Test Procedure for Room Air Conditioners,'' Standard RAC–1–2020 (incorporated by reference; see § 430.3).

2.3 ''ANSI/ASHRAE 16'' means the test standard published jointly by the American National Standards Institute and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers titled ''Method of Testing for Rating Room Air Conditioners and Packaged Terminal Air Conditioners,'' Standard 16–2016 (incorporated by reference; see § 430.3).

2.4 ''ANSI/ASHRAE 41.1'' means the test standard published jointly by the American National Standards Institute and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers titled ''Standard Method for Temperature Measurement,'' Standard 41.1–2013 (incorporated by reference; see § 430.3).

2.5 ''ASHRAE 41.2–1987 (RA 1992)'' means the test standard published jointly by the American National Standards Institute and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers titled ''Standard Methods for Laboratory Airflow Measurement,'' Standard 41.2–1987 (RA 1992) (incorporated by reference; see § 430.3).

2.6 ''ASHRAE 41.3–2014'' means the test standard published jointly by the American National Standards Institute and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers titled ''Standard Methods for Pressure Measurement,'' Standard 41.3–2014 (incorporated by reference; see § 430.3).

2.7 ''ASHRAE 41.6–2014'' means the test standard published jointly by the American National Standards Institute and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers titled ''Standard Method for Humidity Measurement,'' Standard 41.6–2014 (incorporated by reference; see § 430.3).

2.8 ''ASHRAE 41.11–2014'' means the test standard published jointly by the American National Standards Institute and the American Society of Heating, Refrigerating, and Air-Conditioning Engineers titled ''Standard Methods for Power Measurement,'' Standard 41.11–2014 (incorporated by reference; see § 430.3).

2.9 ''Combined energy efficiency ratio'' means the energy efficiency of a room air conditioner in British thermal units per watt-hour (Btu/Wh) and determined in section 5.2.2 of this appendix for single-speed room air conditioners and section 5.3.12 of this appendix for variable-speed room air conditioners.

2.10 ''Cooling capacity'' means the amount of cooling, in British thermal units per hour (Btu/h), provided to a conditioned space, measured under the specified conditions and determined in section 4.1 of this appendix.

2.11 ''Cooling mode'' means an active mode in which a room air conditioner has activated the main cooling function according to the thermostat or temperature sensor signal or switch (including remote control).

2.12 ''Full compressor speed (full)'' means the compressor speed at which the unit operates at full load test conditions, when using user settings to achieve maximum cooling capacity, according to the instructions in ANSI/ASHRAE Standard 16–2016.

2.13 ''IEC 62301'' means the test standard published by the International Electrotechnical Commission, titled ''Household electrical appliances—Measurement of standby power,'' Publication 62301 (Edition 2.0 2011–01), (incorporated by reference; see § 430.3).

2.14 ''Inactive mode'' means a standby mode that facilitates the activation of active mode by remote switch (including remote control) or internal sensor or which provides continuous status display.

2.15 ''Intermediate compressor speed (intermediate)'' means the compressor speed higher than the low compressor speed at which the measured capacity is higher than the capacity at low compressor speed by one third of the difference between $Capacity_4$, the measured cooling capacity at test condition 4 in Table 1 of this appendix, and $Capacity_1$, the measured cooling capacity with the full compressor speed at test condition 1 in Table 1 of this appendix, with a tolerance of plus 5 percent (designs with non-discrete speed stages) or the next highest inverter frequency step (designs with discrete speed steps), achieved by following the instructions certified by the manufacturer.

2.16 ''Low compressor speed (low)'' means the compressor speed at which the unit operates at low load test conditions, achieved by following the instructions certified by the manufacturer, such that $Capacity_4$, the measured cooling capacity at test condition 4 in Table 1 of this appendix, is no less than 47 percent and no greater than 57 percent of $Capacity_1$, the measured cooling capacity with the full compressor speed at test condition 1 in Table 1 of this appendix.

2.17 ''Off mode'' means a mode in which a room air conditioner is connected to a mains power source and is not providing any active or standby mode function and where the mode may persist for an indefinite time, including an indicator that only shows the user that the product is in the off position.

2.18 ''Single-speed room air conditioner'' means a type of room air conditioner that cannot automatically adjust the compressor speed based on detected conditions.

2.19 ''Standby mode'' means any product mode where the unit is connected to a mains power source and offers one or more of the following user-oriented or protective functions which may persist for an indefinite time:

(a) To facilitate the activation of other modes (including activation or deactivation of active mode) by remote switch (including remote control), internal sensor, or timer. A timer is a continuous clock function (which may or may not be associated with a display) that provides regular scheduled tasks (*e.g.,* switching) and that operates on a continuous basis.

(b) Continuous functions, including information or status displays (including clocks) or sensor-based functions.

2.20 ''Theoretical comparable single-speed room air conditioner'' means a theoretical single-speed room air conditioner with the same cooling capacity and electrical power input as the variable-speed room air conditioner under test, with no cycling losses considered, at test condition 1 in Table 1 of this appendix.

2.21 ''Variable-speed compressor'' means a compressor that can vary its rotational speed in non-discrete stages or discrete steps from low to full.

2.22 ''Variable-speed room air conditioner'' means a type of room air conditioner that can automatically adjust compressor speed based on detected conditions.

3. Test Methods and General Instructions

3.1 *Cooling mode.* The test method for testing room air conditioners in cooling mode (''cooling mode test'') consists of applying the methods and conditions in AHAM RAC–1 Section 4, Paragraph 4.1 and for single-speed room air conditioners, Section 5, Paragraph 5.2.1.1, and for variable-speed room air conditioners, Section 5, Paragraph 5.2.1.2, except in accordance with ANSI/ASHRAE 16, including the references to ANSI/ASHRAE 41.1, ANSI/ASHRAE 41.2–1987 (RA 1992), ANSI/ASHRAE 41.3–2014, ANSI/ASHRAE 41.6–2014, and ANSI/ASHRAE 41.11–2014, all referenced therein, as defined in sections 2.3 through 2.8 of this appendix. Use the cooling capacity simultaneous indoor calorimeter and outdoor calorimeter test method in Section 7.1.a and Sections 8.1 through 8.5 of ANSI/ASHRAE 16, except as otherwise specified in this

appendix. If a unit can operate on multiple operating voltages as distributed in commerce by the manufacturer, test it and rate the corresponding basic models at all nameplate operating voltages. For a variable-speed room air conditioner, test the unit following the cooling mode test a total of four times: One test at each of the test conditions listed in Table 1 of this appendix, consistent with section 4.1 of this appendix.

3.1.1 *Through-the-wall installation.* Install a non-louvered room air conditioner inside a compatible wall sleeve with the provided or manufacturer-required rear grille, and with only the included trim frame and other manufacturer-provided installation materials, per manufacturer instructions provided to consumers.

3.1.2 *Power measurement accuracy.* All instruments used for measuring electrical inputs to the test unit, reconditioning equipment, and any other equipment that operates within the calorimeter walls must be accurate to ±0.5 percent of the quantity measured.

3.1.3 *Electrical supply.* For cooling mode testing, test at each nameplate operating voltage, and maintain the input standard voltage within ±1 percent. Test at the rated frequency, maintained within ±1 percent.

3.1.4 *Control settings.* If the room air conditioner has network capabilities, all network features must be disabled throughout testing.

3.1.5 *Measurement resolution.* Record measurements at the resolution of the test instrumentation.

3.1.6 *Temperature tolerances.* Maintain each of the measured chamber dry-bulb and wet-bulb temperatures within a range of 1.0 °F.

3.2 *Standby and off modes.*

3.2.1 Install the room air conditioner in accordance with Section 5, Paragraph 5.2 of IEC 62301 and maintain the indoor test conditions (and outdoor test conditions where applicable) as required by Section 4, Paragraph 4.2 of IEC 62301. If testing is not conducted in a facility used for testing cooling mode performance, the test facility must comply with Section 4, Paragraph 4.2 of IEC 62301.

3.2.2 *Electrical supply.* For standby mode and off mode testing, maintain the electrical supply voltage and frequency according to the requirements in Section 4, Paragraph 4.3.1 of IEC 62301.

3.2.3 *Supply voltage waveform.* For the standby mode and off mode testing, maintain the electrical supply voltage waveform indicated in Section 4, Paragraph 4.3.2 of IEC 62301.

3.2.4 *Wattmeter.* The wattmeter used to measure standby mode and off mode power consumption must meet the resolution and accuracy requirements in Section 4, Paragraph 4.4 of IEC 62301.

3.2.5 *Air ventilation damper.* If the unit is equipped with an outdoor air ventilation damper, close this damper during standby mode and off mode testing.

4. Test Conditions and Measurements

4.1 *Cooling mode.*

4.1.1 *Temperature conditions.* Establish the test conditions described in Sections 4 and 5 of AHAM RAC–1 and in accordance with ANSI/ASHRAE 16, including the references to ANSI/ASHRAE 41.1 and ANSI/ASHRAE 41.6–2014, for cooling mode testing, with the following exceptions for variable-speed room air conditioners: Conduct the set of four cooling mode tests with the test conditions presented in Table 1 of this appendix. For test condition 1 and test condition 2, achieve the full compressor speed with user settings, as defined in section 2.12 of this appendix. For test condition 3 and test condition 4, set the required compressor speed in accordance with instructions the manufacturer provided to DOE.

TABLE 1—INDOOR AND OUTDOOR INLET AIR TEST CONDITIONS—VARIABLE-SPEED ROOM AIR CONDITIONERS

Test condition	Evaporator inlet (indoor) air, °F		Condenser inlet (outdoor) air, °F		Compressor speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	Full.
Test Condition 2	80	67	92	72.5	Full.
Test Condition 3	80	67	87	69	Intermediate.
Test Condition 4	80	67	82	65	Low.

4.1.2 *Cooling capacity and power measurements.* For single-speed units, measure the cooling mode cooling capacity (expressed in Btu/h), Capacity, and electrical power input (expressed in watts), $P_{cool,}$ in accordance with Section 6, Paragraphs 6.1 and 6.2 of AHAM RAC–1, respectively, and in accordance with ANSI/ASHRAE 16, including the references to ANSI/ASHRAE 41.2–1987 (RA 1992) and ANSI/ASHRAE 41.11–2014. For variable-speed room air conditioners, measure the condition-specific cooling capacity (expressed in Btu/h), $Capacity_{tc}$, and electrical power input (expressed in watts), P_{tc}, for each of the four cooling mode rating test conditions (tc), as required in Section 6, Paragraphs 6.1 and 6.2, respectively, of AHAM RAC–1, respectively, and in accordance with ANSI/ASHRAE 16, including the references to ANSI/ASHRAE 41.2–1987 (RA 1992) and ANSI/ASHRAE 41.11–2014.

4.2 *Standby and off modes.* Establish the testing conditions set forth in section 3.2 of this appendix, ensuring the unit does not enter any active mode during the test. For a unit that drops from a higher power state to a lower power state as discussed in Section 5, Paragraph 5.1, Note 1 of IEC 62301, allow sufficient time for the room air conditioner to reach the lower power state before proceeding with the test measurement. Use the sampling method test procedure specified in Section 5, Paragraph 5.3.2 of IEC 62301 for testing all standby and off modes, with the following modifications: Allow the product to stabilize for 5 to 10 minutes and use an energy use measurement period of 5 minutes.

4.2.1 If the unit has an inactive mode, as defined in section 2.14 of this appendix, as defined in section 2.17 of this appendix, measure and record the average inactive mode power, $P_{ia,}$ in watts.

4.2.2 If the unit has an off mode, as defined in section 2.17 of this appendix, measure and record the average off mode power, P_{om}, in watts.

5. Calculations

5.1 *Annual energy consumption in inactive mode and off mode.* Calculate the annual energy consumption in inactive mode and off mode, $AEC_{ia/om,}$ expressed in kilowatt-hours per year (kWh/year).

$$AEC_{ia/om} = (Pia \times t_{ia}) + (P_{om} + t_{om})$$

Where:

$AEC_{ia/om}$ = annual energy consumption in inactive mode and off mode, in kWh/year.

P_{ia} = average power in inactive mode, in watts, determined in section 4.2 of this appendix.

P_{om} = average power in off mode, in watts, determined in section 4.2 of this appendix.

t_{ia} = annual operating hours in inactive mode and multiplied by a 0.001 kWh/Wh conversion factor from watt-hours to kilowatt-hours. This value is 5.115 kWh/W if the unit has inactive mode and no off mode, 2.5575 kWh/W if the unit has both inactive and off mode, and 0 kWh/W if the unit does not have inactive mode.

t_{om} = annual operating hours in off mode and multiplied by a 0.001 kWh/Wh conversion factor from watt-hours to kilowatt-hours. This value is 5.115 kWh/W if the unit has off mode and no inactive mode, 2.5575 kWh/W if the unit has both inactive and off mode, and 0 kWh/W if the unit does not have off mode.

5.2 *Combined energy efficiency ratio for single-speed room air conditioners.* Calculate the combined energy efficiency ratio for single-speed room air conditioners as follows:

5.2.1 *Single-speed room air conditioner annual energy consumption in cooling mode.* Calculate the annual energy consumption in cooling mode for a single-speed room air conditioner, $AEC_{cool,}$ expressed in kWh/year.

$$AEC_{cool} = 0.75 \times P_{cool}$$

Where:

AEC_{cool} = single-speed room air conditioner annual energy consumption in cooling mode, in kWh/year.

P_{cool} = single-speed room air conditioner average power in cooling mode, in watts, determined in section 4.1.2 of this appendix.

0.75 is 750 annual operating hours in cooling mode multiplied by a 0.001 kWh/Wh conversion factor from watt-hours to kilowatt-hours.

5.2.2 *Single-speed room air conditioner combined energy efficiency ratio.* Calculate the combined energy efficiency ratio, CEER, expressed in Btu/Wh, as follows:

$$CEER = \left[\frac{Capacity}{\left(\frac{AEC_{cool} + AEC_{ia/om}}{0.75}\right)}\right]$$

Where:

CEER = combined energy efficiency ratio, in Btu/Wh.

Capacity = single-speed room air conditioner cooling capacity, in Btu/h, determined in section 4.1.2 of this appendix.

AEC_{cool} = single-speed room air conditioner annual energy consumption in cooling mode, in kWh/year, calculated in section 5.2.1 of this appendix.

$AEC_{ia/om}$ = annual energy consumption in inactive mode or off mode, in kWh/year, calculated in section 5.1 of this appendix.

0.75 as defined in section 5.2.1 of this appendix.

5.3 *Combined energy efficiency ratio for variable-speed room air conditioners.* Calculate the combined energy efficiency ratio for variable-speed room air conditioners as follows:

5.3.1 *Weighted electrical power input.* Calculate the weighted electrical power input in cooling mode, $P_{wt,}$ expressed in watts, as follows:

$$P_{wt} = \Sigma_{tc}\, P_{tc} \times W_{tc}$$

Where:

P_{wt} = weighted electrical power input, in watts, in cooling mode.

P_{tc} = electrical power input, in watts, in cooling mode for each test condition in Table 1 of this appendix.

W_{tc} = weighting factors for each cooling mode test condition: 0.08 for test condition 1, 0.20 for test condition 2, 0.33 for test condition 3, and 0.39 for test condition 4. tc represents the cooling mode test condition: ''1'' for test condition 1 (95 °F condenser inlet dry-bulb temperature), ''2'' for test condition 2 (92 °F), ''3'' for test condition 3 (87 °F), and ''4'' for test condition 4 (82 °F).

5.3.2 *Theoretical comparable single-speed room air conditioner.* Calculate the cooling capacity, expressed in Btu/h, and the electrical power input, expressed in watts, for a theoretical comparable single-speed room air conditioner at all cooling mode test conditions.

$$Capacity_{ss\_tc} = Capacity_1 \times (1 + (M_c \times (95 - T_{tc})))$$

$$P_{ss\_tc} = P_1 \times (1 - (M_p \times (95 - T_{tc})))$$

Where:

$Capacity_{ss\_tc}$ = theoretical comparable single-speed room air conditioner cooling capacity, in Btu/h, calculated for each of the cooling mode test conditions in Table 1 of this appendix.

$Capacity_1$ = variable-speed room air conditioner unit's cooling capacity, in Btu/h, determined in section 4.1.2 of this appendix for test condition 1 in Table 1 of this appendix.

P_{ss_tc} = theoretical comparable single-speed room air conditioner electrical power input, in watts, calculated for each of the cooling mode test conditions in Table 1 of this appendix.

P_1 = variable-speed room air conditioner unit's electrical power input, in watts, determined in section 4.1.2 of this appendix for test condition 1 in Table 1 of this appendix.

M_c = adjustment factor to determine the increased capacity at lower outdoor test conditions, 0.0099 per °F.

M_p = adjustment factor to determine the reduced electrical power input at lower outdoor test conditions, 0.0076 per °F.

95 is the condenser inlet dry-bulb temperature for test condition 1 in Table 1 of this appendix, 95 °F.

T_{tc} = condenser inlet dry-bulb temperature for each of the test conditions in Table 1 of this appendix (in °F).

tc as explained in section 5.3.1 of this appendix.

5.3.3 *Variable-speed room air conditioner unit's annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for cooling mode under each test condition, $AEC_{tc,}$ expressed in kilowatt-hours per year (kWh/year), as follows:

$$AEC_{tc} = 0.75 \times P_{tc}$$

Where:

AEC_{tc} = variable-speed room air conditioner unit's annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix.

P_{tc} = as defined in section 5.3.1 of this appendix.

0.75 as defined in section 5.2.1 of this appendix.

tc as explained in section 5.3.1 of this appendix.

5.3.4 *Variable-speed room air conditioner weighted annual energy consumption.* Calculate the weighted annual energy consumption in cooling mode for a variable-speed room air conditioner, $AEC_{wt,}$ expressed in kWh/year.

$$AEC_{wt} = \Sigma_{tc}\, AEC_{tc} \times W_{tc}$$

Where:

AEC_{wt} = weighted annual energy consumption in cooling mode for a variable-speed room air conditioner, expressed in kWh/year.

AEC_{tc} = variable-speed room air conditioner unit's annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix, determined in section 5.3.3 of this appendix.

W_{tc} = weighting factors for each cooling mode test condition: 0.08 for test condition 1, 0.20 for test condition 2, 0.33 for test condition 3, and 0.39 for test condition 4.

tc as explained in section 5.3.1 of this appendix.

5.3.5 *Theoretical comparable single-speed room air conditioner annual energy consumption in cooling mode at each cooling mode test condition.* Calculate the annual energy consumption in cooling mode for a theoretical comparable single-speed room air conditioner for cooling mode under each test condition, AEC_{ss_tc}, expressed in kWh/year.

$$AEC_{ss\_tc} = 0.75 \times P_{ss\_tc}$$

Where:

AEC_{ss_tc} = theoretical comparable single-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix.

P_{ss_tc} = theoretical comparable single-speed room air conditioner electrical power input, in watts, in cooling mode for each test condition in Table 1 of this appendix, determined in section 5.3.2 of this appendix.

0.75 as defined in section 5.2.1 of this appendix.

tc as explained in section 5.3.1 of this appendix.

5.3.6 *Variable-speed room air conditioner combined energy efficiency ratio at each cooling mode test condition.* Calculate the variable-speed room air conditioner unit's combined energy efficiency ratio, $CEER_{tc}$, for each test condition, expressed in Btu/Wh.

$$CEER_{tc} = \frac{Capacity_{tc}}{\left(\frac{AEC_{tc} + AEC_{ia/om}}{0.75}\right)}$$

Where:

$CEER_{tc}$ = variable-speed room air conditioner unit's combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix.

$Capacity_{tc}$ = variable-speed room air conditioner unit's cooling capacity, in Btu/h, for each test condition in Table 1 of this appendix, determined in section 4.1.2 of this appendix.

AEC_{tc} = variable-speed room air conditioner unit's annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix, determined in section 5.3.3 of this appendix.

$AEC_{ia/om}$ = annual energy consumption in inactive mode of off mode, in kWh/year, determined in section 5.1 of this appendix.

0.75 as defined in section 5.2.1 of this appendix.

tc as explained in section 5.3.1 of this appendix.

5.3.7 *Theoretical comparable single-speed room air conditioner combined energy efficiency ratio.* Calculate the combined energy efficiency ratio for a theoretical comparable single-speed room air conditioner, $CEER_{ss\_tc}$, for each test condition, expressed in Btu/Wh.

$$CEER_{ss\_tc} = \frac{Capacity_{ss\_tc}}{\left(\frac{AEC_{ss\_tc} + AEC_{ia/om}}{0.75}\right)}$$

Where:

$CEER_{ss\_tc}$ = theoretical comparable single-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix.

$Capacity_{ss\_tc}$ = theoretical comparable single-speed room air conditioner cooling capacity, in Btu/h, for each test condition in Table 1 of this appendix, determined in section 5.3.2 of this appendix.

AEC_{ss_tc} = theoretical comparable single-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix, determined in section 5.3.5 of this appendix.

$AEC_{ia/om}$ = annual energy consumption in inactive mode or off mode, in kWh/year, determined in section 5.1 of this appendix.

0.75 as defined in section 5.2.1 of this appendix.

tc as explained in section 5.3.1 of this appendix.

5.3.8 *Theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio.* Calculate the adjusted combined energy efficiency ratio, for a theoretical comparable single-speed room air conditioner, $CEER_{ss\_tc\_adj}$, with cycling losses considered, for each test condition, expressed in Btu/Wh.

$$CEER_{ss\_tc\_adj} = CEER_{ss\_tc} \times CLF_{tc}$$

Where:

$CEER_{ss\_tc\_adj}$ = theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix.

$CEER_{ss\_tc}$ = theoretical comparable single-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix, determined in section 5.3.7 of this appendix.

CLF_{tc} = cycling loss factor for each test condition; 1 for test condition 1, 0.956 for test condition 2, 0.883 for test condition 3, and 0.810 for test condition 4.

tc as explained in section 5.3.1 of this appendix.

5.3.9 *Weighted combined energy efficiency ratio.* Calculate the weighted combined energy efficiency ratio for the variable-speed room air conditioner unit, $CEER_{wt}$, and theoretical comparable single-speed room air conditioner, $CEER_{ss\_wt}$, expressed in Btu/Wh.

$$CEER_{wt} = \Sigma_{tc}\ CEER_{tc} \times W_{tc}$$

$$CEER_{ss\_wt} = \Sigma_{tc}\ CEER_{ss\_tc\_adj} \times W_{tc}$$

Where:

$CEER_{wt}$ = variable-speed room air conditioner unit's weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_{ss\_wt}$ = theoretical comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_{tc}$ = variable-speed room air conditioner unit's combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1 of this appendix, determined in section 5.3.6 of this appendix.

$CEER_{ss\_tc\_adj}$ = theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1 of this appendix, determined in section 5.3.8 of this appendix.

W_{tc} as defined in section 5.3.4 of this appendix.

tc as explained in section 5.3.1 of this appendix.

5.3.10 *Variable-speed room air conditioner performance adjustment factor.* Calculate the variable-speed room air conditioner unit's performance adjustment factor, F_p.

$$F_p = \frac{\left(CEER_{wt} - CEER_{ss\_wt}\right)}{CEER_{ss\_wt}}$$

Where:

F_p = variable-speed room air conditioner unit's performance adjustment factor.

$CEER_{wt}$ = variable-speed room air conditioner unit's weighted combined energy efficiency ratio, in Btu/Wh, determined in section 5.3.9 of this appendix.

$CEER_{ss\_wt}$ = theoretical comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh, determined in section 5.3.9 of this appendix.

5.3.11 *Variable-speed room air conditioner combined energy efficiency ratio.* Calculate the combined energy efficiency ratio, CEER, expressed in Btu/Wh, for variable-speed air conditioners.

$$CEER = CEER_1 \times (1 + F_p)$$

Where:

CEER = combined energy efficiency ratio, in Btu/Wh.

$CEER_1$ = variable-speed room air conditioner combined energy efficiency ratio for test condition 1 in Table 1 of this appendix, in Btu/Wh, determined in section 5.3.6 of this appendix.

F_p = variable-speed room air conditioner performance adjustment factor, determined in section 5.3.10 of this appendix.

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Part III

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 734, 740, 742, et al.
Export Administration Regulations: Implementation of Wassenaar Arrangement 2019 Plenary Decisions; Elimination of Reporting Requirements for Certain Encryption Items; Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 734, 740, 742, 772, and 774

[Docket No. 210310–0051]

RIN 0694–AI00

Export Administration Regulations: Implementation of Wassenaar Arrangement 2019 Plenary Decisions; Elimination of Reporting Requirements for Certain Encryption Items

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) maintains, as part of its Export Administration Regulations (EAR), the Commerce Control List (CCL), which identifies certain items subject to Department of Commerce jurisdiction. This final rule revises the CCL, as well as corresponding parts of the EAR, to implement changes to the Wassenaar Arrangement List of Dual-Use Goods and Technologies (WA List) that were decided upon by governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement, or WA) at the December 2019 WA Plenary meeting. The Wassenaar Arrangement advocates implementation of effective export controls on strategic items with the objective of improving regional and international security and stability. This rule harmonizes the CCL with the decisions reached at the 2019 Plenary meeting by revising Export Control Classification Numbers (ECCNs) controlled for national security reasons in each category of the CCL. This rule also makes associated changes to the EAR as well as corrections. This rule also makes changes to various provisions related to Category 5—Part 2 of the CCL in the EAR, including provisions on License Exception Encryption commodities, software, and technology (ENC). These changes, which include the elimination of reporting requirements for certain encryption items, are designed to reduce the regulatory burden for exporters while still fulfilling U.S. national security and foreign policy objectives.

DATES: This rule is effective March 29, 2021.

FOR FURTHER INFORMATION CONTACT: For general questions, contact Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at 202–482–2440 or by email: *Sharron.Cook@bis.doc.gov.*

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SUPPLEMENTARY INFORMATION:

Background

The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement or WA) (*http://www.wassenaar.org/*) is a group of 42 like-minded states committed to promoting responsibility and transparency in the global arms trade and preventing destabilizing accumulations of arms. As a Participating State of the WA (Participating State), the United States has committed to controlling for export all items on the WA control lists. The lists were first established in 1996 and have been revised annually thereafter. Proposals for changes to the WA control lists that achieve consensus are approved by Participating States at annual plenary meetings. Participating States are charged with implementing the list changes as soon as possible after approval. The United States' implementation of WA control list changes ensures that U.S. companies have a level playing field with their competitors in other WA Participating States.

BIS published a final rule on October 25, 2020 (85 FR 62583) implementing certain new controls on emerging technologies, as approved at the December 2019 WA Plenary meeting. The changes in this rule, which represent the remaining approved changes to the WA control lists, update the corresponding items listed in the EAR and reflect recent technical advancements and clarifications. Unless explicitly discussed below, the revisions made by this rule will not impact the number of license applications submitted to BIS.

Revisions to the Commerce Control List Related to WA 2019 Plenary Decisions Revises 22 ECCNs: 0A502, 0A503, 0A606, 1A002, 1A005, 1A006, 1A613, 1B002, 1C001, 1C002, 1C006, 1C010, 2A001, 3B001, 3E002, 5A002, 6A004, 6A005, 6A008, 9A011, 9D515, 9E003.

Category 0—Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]

0A502 Shotguns . . .

The Header of ECCN 0A502 is amended by adding the phrase ''to slaughter domestic animals'' to the exclusion text. This phrase is added because shotguns are often used in the humane slaughter of domestic animals such as cattle, sheep, or horses.

0A503 Discharge Type Arms and Devices To Administer Electric Shock . . .

The header of ECCN 0A503 is amended by adding the phrase ''to slaughter domestic animals'' to the exclusion text. This phrase is added because discharge type arms are often used in the humane slaughter of domestic animals such as cattle, sheep, or horses.

0A606 Ground Vehicles and Related Commodities

Paragraphs 0A606.b.1 (unarmed vehicles that are derived from civilian vehicles) and 0A606.b.2 (Parts and components) are amended by revising the parameters in Items paragraphs b.1.a and b.2.b to add the defined term ''equivalent standards'' as an alternative to the U.S. standard of ''level III (National Institute of Justice standard 0108.01, September 1985).'' This revision is made to allow WA Participating States to be able to use ''comparable national or international standards recognized by one or more Wassenaar Arrangement Participating States and applicable to the relevant

entry.'' This definition of ''equivalent standards'' is added to part 772 of the EAR. The word ''for'' is added before the word ''vehicles'' in Items paragraph b.1.b as an editorial correction decided to by the WA.

Category 1—Special Materials and Related Equipment, Chemicals, ''Microorganisms,'' and ''Toxins''

1A002 ''Composite'' Structures or Laminates

Note 5 is added at the end of the Items paragraph to exclude ''mechanically chopped, milled, or cut carbon ''fibrous or filamentary materials'' 25.0 mm or less in length'' from the control in Items paragraph b.1 (carbon ''fibrous or filamentary materials'').

1A005 Body Armor and ''Specially Designed'' ''Components'' Therefor

Notes 2 and 3 in the Related Controls paragraph are amended to add the defined term ''equivalent standards'' after the U.S. ''NIJ level III'' standard, in order to allow WA Participating States to be able to use ''comparable national or international standards recognized by one or more Wassenaar Arrangement Participating States and applicable to the relevant entry.'' In Items paragraph .b (hard body armor plates that provide ballistic protection), the term ''national equivalents,'' which is not defined in the EAR, is replaced with the defined term ''equivalent standards,'' which is added to § 772.1 of the EAR by this rule. This change will also allow the use of equivalent national standards of Participating States and international standards recognized by one or more WA Participating States.

1A006 Equipment, ''Specially Designed'' or Modified for the Disposal of Improvised Explosive Devices (IEDs)

The Header is amended by capitalizing each of the individual words in the term ''Improvised Explosive Devices'', as well as adding the acronym IEDs in parentheses. The Related Controls paragraph is amended by replacing ''Improvised Explosive Devices'' with the acronym IEDs. The unilateral definition for 'disruptors' is removed from the Related Definitions paragraph because the WA definition of this term is included in the Technical Note that is added to 1A006.b. A Note is also added at the end of the Items paragraph to inform the public that the controls of ECCN 1A006 do not apply to equipment that accompanies its operator.

1A613 Armored and Protective ''Equipment'' and Related Commodities

Items paragraphs .c (military helmets), d.1 (soft body armor and protective garments), d.2 (hard body armor plates), and the Note after Items paragraph d.2 are amended by adding ''or ''equivalent standard'' after the National Institute of Justice (NIJ) standard, in order to allow the use of ''comparable national or international standards recognized by one or more Wassenaar Arrangement Participating States and applicable to the relevant entry.''

1B002 Equipment Designed To Produce Metal Alloy Powder or Particulate Materials

The header is amended to revise the text of the header and move two unchanged control parameters into two sub-paragraphs in the Items paragraph section. The header text is amended by replacing ''for producing metal alloys, metal alloy powder or alloyed materials, ''specially designed'' to avoid contamination and ''specially designed'' for use in one of the processes specified in 1C002.c.2.'' with ''designed to produce metal alloy powder or particulate materials and having any of the following (see List of Items Controlled).'' Metal alloy powders are specified in 1C002.c, but the actual text refers to ''metal alloy powder or particulate material''. The equipment in 1B002 make the metal alloy powder specified in 1C002.c, but not the metal alloys in 1C002.b. Therefore, ''metal alloys'' is removed from the header of 1B002.

1C001 Materials ''Specially Designed'' for Absorbing Electromagnetic Radiation, or Intrinsically Conductive Polymers

Exclusion Note 1 to 1C001.a is amended by revising paragraph d.2 relating to planar absorbers made of sintered ferrite to add ''or less'' to the end of the parameter relating to maximum operating temperature to clarify that the exclusion is not exclusively limited to materials having a maximum operating temperature of 548 K.

1C002 Metal Alloys, Metal Alloy Powder and Alloyed Materials

Technical Note 3, which defines 'low cycle fatigue life,' is amended by replacing the defined term ''average stress'' with ''average stress ratio'' to correctly state what the formula that follows calculates.

1C006 Fluids and Lubricating Materials

This rule amends Items paragraph 1C006.d by replacing ''fluorocarbon electronic cooling fluids'' with ''fluorocarbon fluids designed for electronic cooling'' to reflect the fact that certain fluorocarbon fluids are designed for electronic cooling. This revision narrows the scope of control to only those fluorocarbon fluids designed for electronic cooling.

1C010 ''Fibrous or Filamentary Materials''

Items paragraph 1C010.c is intended to capture inorganic/ceramic fibers that are tested or used for applications involving high-stress and high-temperature environments. However, the current level of control captured a large number of inorganic fibers that are not suitable for critical structural applications requiring high modulus and strength retention at high temperatures. The following changes will narrow the scope to better target the control. This rule amends Items paragraph 1C010.c, inorganic ''fibrous or filamentary materials,'' by splitting paragraph c.1 into two subparagraphs c.1.a and c.1.b, by adding a silicon dioxide (SiO2) composition element to the existing ''specific modulus'' parameter in 1C010.c.1.a, as well as by adding a new ''specific modulus'' parameter in paragraph c.1.b, ''exceeding 5.6×10^6 m.''

Category 2—Materials Processing

2A001 Anti-Friction Bearings and Bearing Systems

The Heading of 2A001 is amended by moving ''and ''components'' therefor'' from the end of the heading to immediately after ''bearing systems,'' because only paragraph 2A001.c has controls on ''components.'' In addition, Items paragraph 2A001.c is amended by adding ''and ''specially designed'' components therefor'' because the component control in the heading no longer applies to all the Items paragraphs and 2A001.c does include a component control. Replacing ''and ''components'' therefor'' with ''and specially designed'' components therefor'' narrows the scope of control to only those components that rise to the level of warranting control. Exclusion Note 2 to 2A001 relating to balls with tolerances specified by the manufacturer in accordance with ISO 3290 is removed because investigation into ISO 3290 has revealed that versions of this standard dated 1998 and 2001 have only applied to steel balls.

Category 3—Electronics

3B001 Equipment for the Manufacturing of Semiconductor Devices or Materials

A nota bene (N.B.) is added after the Note to 3B001.h to point the public to 6B002 for masks and reticles ''specially designed'' for optical sensors.

3E002 ''Technology'' According to the General Technology Note Other Than That Controlled in 3E001 for the ''Development'' or ''Production'' of a ''Microprocessor Microcircuit'', ''Micro-Computer Microcircuit'' and Microcontroller Microcircuit Core

In order to better understand the control parameters, this rule adds two Technical Notes at the end of the Items paragraph to refer to IEEE–754 for 'floating-point' and to define 'fixed-point,' as a fixed-width real number with both an integer component and a fractional component, and which does not include integer-only formats. Single quotation marks are added around these terms throughout 3E002, as they are defined in the context of this ECCN.

Category 5—Part 2—''Information Security''

5A002 ''Information security'' systems, equipment and ''components''

This rule amends 5A002.a by replacing ''by means of ''cryptographic activation'' not employing a secure mechanism'' with ''by any means other than secure ''cryptographic activation''.'' This is an editorial change made to clarify what is controlled in 5A002.a. It does not change the scope of the entry.

This rule also expands the scope of paragraph f (wireless ''personal area network'' functionality) of the 5A002.a exclusion Note 2 by removing the limitations on range and number of connections specified in the two subparagraphs of paragraph f. As a result, any item using only published or commercial cryptographic standards where the ''information security'' functionality is limited to ''personal area network'' functionality, as defined in part 772 of the EAR, is excluded from Category 5 Part 2, regardless of the range or number of connections. In addition, a new Note is being added to the definition of ''personal area network'' in part 772 to clarify that a ''local area network'' is not a ''personal area network''. Without the note, the definition of ''personal area network'' could be read to include some short-range ''local area networks''.

This rule adds ''gateways'' to paragraph h of the 5A002.a exclusion Note 2 to exclude gateways where the ''information security'' functionality is limited to the tasks of ''Operations, Administration or Maintenance'' (''OAM'') implementing only published or commercial cryptographic standards.

Category 6—Sensors and Lasers

6A004 Optical Equipment and ''Components''

This rule amends Items paragraph 6A004.c.4 by moving the phrase ''in any coordinate direction'' from the end of the parameter to the middle of the paragraph after ''linear thermal expansion,'' as well as adding the unit ''/K'' (per Kelvin) after 5×10^{-6}. These changes make the control text clearer; they do not change the scope of the control.

6A005 ''Lasers,'' ''Components'' and Optical Equipment

This rule amends Items paragraphs a.6.a.1 and a.6.a.2.a (non-''tunable'' continuous wave ''(CW) lasers,'' 'single transverse mode' output) to replace the term ''average output power'' with ''output power'' because CW lasers generally have a steady state output power after a transient time period.

6A008 Radar Systems, Equipment and Assemblies

This rule amends Items paragraph 6A008.j and the associated Note by replacing ''instrumented range'' with 'instrumented range' because this rule moves the definition for this term from § 772.1 to a Technical Note added above Items paragraph j. The definition is moved because it is only used in 6A008. There is no change to the definition.

Category 9—Aerospace and Propulsion

9A011 Ramjet, Scramjet or 'Combined Cycle Engines', and ''Specially Designed'' ''Parts'' and ''Components'' Therefor

This rule adds a Technical Note below the heading to define 'combined cycle engines' and adds single quotes around the term in the heading. Items specified in ECCN 9A011 are ''subject to the International Traffic in Arms Regulations (ITAR),'' *see* 22 CFR parts 120 through 130. The Technical Note is added to assist the public in identifying items specified in ECCN 9A011.

9D515 ''Software'' ''Specially Designed'' for the ''Development,'' ''Production,'' Operation, Installation, Maintenance, Repair, Overhaul, or Refurbishing of ''Spacecraft'' and Related Commodities

This rule numbers each sentence in the Related Controls paragraph and adds a third sentence to direct people to use the appropriate associated ''software'' ECCN for items listed in 9A004.d when these items are incorporated into ''spacecraft payloads'' rather than using 9D515 as the classification for such ''software''. Specifically, persons should use the appropriate associated software ECCN for any of the following incorporated items: 3A001.b.1.a.4, 3A002.g, 5A001.a.1, 5A001.b.3, 5A002.c, 5A002.e, 6A002.a.1, 6A002.a.2, 6A002.b, 6A002.d, 6A003.b, 6A004.c, 6A004.e, 6A008.d, 6A008.e, 6A008.k, 6A008.l or 9A010.c.

9E003 Other ''Technology''

This rule amends Item paragraph 9E003.a.11 ('fan blades') to better define parameters for a fan blade with a substantially open interior. Since the origin of this entry, numerous fan blade construction methods have been developed utilizing materials such as metal foams, honeycombs, and other low density materials in order to reduce weight. As the term 'hollow' is undefined and has no threshold, the scope of the entry was not clear. Without a specific definition of 'hollow', it is both difficult to identify which components fall under 9.E.3.a.11. and the technology ''required'' to meet the 'hollow' characteristic, particularly in the absence of parameters or performance requirements. The term 'fan blade' is defined in order to precisely indicate the items of concern. The structure of the note identifies 'fan blades' as elements of turbofan engines, excluding other types of gas turbine engines.

Supplement No. 6 to Part 774—Sensitive List

Sensitive Items set forth in Supplement No. 6 to Part 774 and its subset of Very Sensitive Items set forth in Supplement No. 7 to Part 774 have reporting requirements in order for WA member countries to inform one another of transactions involving these items. This rule amends paragraphs (1)(i)—1A002.a.1 and (1)(vi)—1D002 of Supplement No. 6 to part 774 (Sensitive List) to align the EAR Sensitive List with the WA Sensitive List. (For the subset of Very Sensitive items, such as stealth technology materials and advanced radar, members are called on to ''exert extreme vigilance'' in exports.)

Changes to Various Provisions Related to Category 5—Part 2 Encryption Items

BIS is amending various provisions in the EAR related to items in Category 5—Part 2, including by eliminating reporting requirements in order to reduce exporters' regulatory burdens. In

summary, this rule makes the following changes: (1) Eliminates the email notification requirement for 'publicly available' encryption source code and beta test encryption software, except for 'publicly available' encryption source code and beta test encryption software implementing ''non-standard cryptography''; (2) eliminates the self-classification reporting requirement for certain 'mass market' encryption products under § 740.17(b)(1); and (3) allows self-classification reporting for ECCN 5A992.c or 5D992.c components of 'mass market' products (and their 'executable software'). This rule moves ''mass market'' ''components,'' 'executable software', toolsets, and toolkits out of § 740.17(b)(3)(i) and into (b)(1). Of those four items, only ''mass market'' ''components'' and 'executable software' are subject to self-classification reporting. Mass market toolsets and toolkits are not subject to self-classification reporting.

This rule does not change any of the License Exception ENC requirements for any non-'mass market' encryption item, or for any encryption item ('mass market' or not) that implements ''non-standard cryptography''.

§ 734.4 De Minimis

This rule revises the title of paragraph (b) and the introductory paragraph (b)(1) to accommodate the addition of digital forensics items (digital investigative tools). This rule also revises paragraph (b)(1)(i) by replacing ''notification requirement of'' with ''criteria specified in,'' because of the change that is simultaneously being made to the notification requirement provisions in § 742.15(b) of the EAR.

§ 734.17 Export of Encryption Source Code and Object Code Software

This rule revises paragraph (b)(2) by replacing ''notification requirements for'' with ''additional requirements'' in the second sentence and ''notification requirements'' in the last sentence with ''additional requirements'', because of this rule's removal of the notification requirement set forth in § 742.15(b) of the EAR for the majority of publicly available software. The reference to § 742.15(b) remains in light of the other requirements that this provision contains, including notification requirements that remain in effect for a small percentage of certain publicly available software.

§ 740.9 Temporary Imports, Exports, Reexports, and Transfers (In-Country) (TMP)

This rule revises paragraph (c)(8), regarding the notification requirement associated with beta test encryption software eligible under License Exception TMP, by narrowing the scope of the requirement to apply only to beta test encryption software implementing ''non-standard cryptography,'' as that term is defined in part 772 of the EAR.

§ 740.13 Technology and Software Unrestricted (TSU)

This rule revises paragraph (d)(2), regarding mass market software exclusions, by correcting citation references. In a rule published on September 20, 2016 (81 FR 64657), EAR requirements for ''mass market'' encryption software were updated and moved from § 742.15(b) to § 740.17(b). However, BIS inadvertently did not update the citations in paragraph (d)(2) at that time and is consequently correcting that oversight in this rule.

§ 740.17 Encryption Commodities, Software and Technology (ENC)

This rule revises the title of introductory paragraph (b), from ''Classification request or self-classification report'' to ''Classification request or self-classification'' because self-classification reports are required for some, but not all, items that exporters can self-classify. Introductory paragraph (b) is also revised by adding the word ''certain'' to the first sentence to indicate that as a consequence of changes made in this rule, not all products described in paragraph (b)(1) that are self-classified require a self-classification report. Paragraph (b)(3) is revised by removing a reference to (b)(3)(i) in the last sentence, because (b)(3)(i) no longer applies to any ''mass market'' component, toolset or toolkit as a consequence of the revisions made in this rule. This rule adds the term ''Non-''mass market'' to the title of paragraph (b)(3)(i). It also revises the sentence in this paragraph to read in this manner: ''Specified components classified under ECCN 5A002.a and equivalent or related software classified under ECCN 5D002 that do not meet the criteria set forth in Note 3 to Category 5—Part 2 of the CCL (the ''mass market'' note) and are not described by paragraph (b)(2) or (b)(3)(ii) of this section, as follows:''. These changes eliminate mandatory submission of a classification request to BIS for the review of ECCN 5A992.c components and ECCN 5D992.c 'executable software' of ''mass market'' products, except for ''non-standard cryptography''. With the elimination of this classification request requirement, the eligible ''mass market'' ''components'' and 'executable software' now default to '(b)(1)' status and consequently may be self-classified and annually reported to BIS and the ENC Encryption Request Coordinator, Ft. Meade, MD (via email to *crypt-supp8@bis.doc.gov* and *enc@nsa.gov,* respectively). In addition, a reference to paragraph (b)(3)(ii) is added to the end of this sentence in paragraph (b)(3)(i) in order to avoid confusion related to ''non-standard cryptography'', as the paragraph (b)(3)(ii) requirement to submit a classification request for ''non-standard cryptography'' remains. In summary, BIS is making the following changes to the License Exception ENC requirements for items formerly described in § 740.17(b)(3)(i) prior to this rule:

(a) ''Mass market'' chips, chipsets, electronic assemblies and field programmable logic devices, and their qualifying 'executable software', that are not described in paragraph (b)(2) of License Exception ENC are now authorized under § 740.17(b)(1) instead of § 740.17(b)(3)(i)(A). These items can now be self-classified and require a self-classification report. BIS anticipates that most cryptographic libraries and modules will remain in § 740.17(b)(3)(i)(B), because paragraph b of Category 5—Part 2 Note 3 (Cryptography Note) excludes items whose primary function is ''information security''.

(b) ''Mass market'' development kits (toolsets) and toolkits that are stand-alone products (*e.g.,* are not ''components'' or 'executable software' of another ''mass market'' product) are also now authorized under § 740.17(b)(1). These items can now be self-classified under ECCN 5A992c or 5D992.c, and self-classification reporting is not required.

There is no change in the status of or requirements relating to items described in §§ 740.17(b)(3)(ii), (iii), or (iv).

Revisions to § 740.17(e) Reporting Requirements

Paragraph (e)(3), self-classification reporting, is revised by adding after the reference to commodities, software, and components in the second sentence ''and components exported or reexported meeting the criteria specified in paragraph (b)(1) of this section.'' It also adds a sentence immediately thereafter that explains that the reporting requirement applies to ''mass market'' encryption ''components'' and 'executable software' that meet the criteria of the Cryptography Note—Note 3 to Category 5—Part 2 of the CCL (''mass market'' note) and are classified under ECCN 5A992.c or 5D992.c following self-classification, provided these items are not further described by paragraph (b)(2) or (b)(3) of Section

740.17. The reporting requirement also applies to non-''mass market'' encryption commodities, software, and components that remain classified in ECCN 5A002, 5B002 or 5D002 following self-classification, provided these items are not further described by paragraph (b)(2) or (b)(3) of Section 740.17. A new note is added for this paragraph that defines 'executable software,' as well as clarifies that 'executable software' does not include complete binary images of the ''software'' running on an end-item, corresponding to similar notes in the Cryptography Note (Note 3 to Category 5—Part 2 in the CCL, Supplement No. 1 to part 774). Clarifying phrases are also added to this paragraph to indicate which non-''mass market'' commodities and software still require self-classification reporting. Under these revisions, ''mass market'' encryption items that fall under § 740.17(b)(1) no longer require classification by BIS or submission of a self-classification report except as noted above. There is no change to the classification or self-classification reporting requirements for non-''mass market'' encryption items controlled under ECCNs 5A002, 5B002 or 5D002. These revisions are estimated to produce a 60% reduction in encryption self-classification reports.

§ 742.15 Encryption Items

This rule renames and revises paragraph (b)(2), regarding the notification requirement for 'publicly available' encryption software, to eliminate email notification to BIS and the ENC Encryption Request Coordinator of such software except for ''non-standard cryptography.'' These revisions are estimated to produce an 80% reduction in notifications regarding publicly available encryption software.

Category 5—Part 2

This rule revises the Nota Bene (N.B.) to Note 3 (Cryptography Note) by adding the word ''certain'' before ''mass market encryption commodities and software'' in the first sentence to indicate that as a result of this rule, not all ''mass market'' encryption requires classification by BIS or the submission of a self-classification report to be released from encryption items (EI) and national security (NS) controls of ECCN 5A002 or 5D002. A sentence is added to the end of this N.B. to clarify the status of ''mass market'' commodities and software that no longer require a self-classification report, including that such items are released from EI and NS controls of ECCN 5A002 or 5D002 but remain controlled under ECCN 5A992.c or 5D992.c.

Export Control Reform Act of 2018

On August 13, 2018, the President signed the Export Control Reform Act of 2018 (ECRA), 50 U.S.C. Sections 4801–4852, which provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

Savings Clause

Shipments of items removed from license exception eligibility or eligibility for export, reexport or transfer (in-country) without a license as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on March 29, 2021, pursuant to actual orders for exports, reexports and transfers (in-country) to a foreign destination, may proceed to that destination under the previous license exception eligibility or without a license so long as they have been exported, reexported or transferred (in-country) before May 28, 2021. Any such items not actually exported, reexported or transferred (in-country) before midnight, on May 28, 2021, require a license in accordance with this final rule.

Executive Order Requirements

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

This rule has been designated a ''significant regulatory action'' under Executive Order 12866.

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

Paperwork Reduction Act Requirements

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves the following OMB-approved collections of information subject to the PRA: 0694–0088, ''Multi-Purpose Application'' which carries a burden hour estimate of 29.6 minutes for a manual or electronic submission; 0694–0137 ''License Exceptions and Exclusions'', which carries a burden hour estimate average of 1.5 hours per submission (Note: Submissions for License Exceptions are rarely required); 0694–0096 ''Five Year Records Retention Period'', which carries a burden hour estimate of less than 1 minute; and 0607–0152 ''Automated Export System (AES) Program'', which carries a burden hour estimate of 3 minutes per electronic submission. Specific license application submission estimates are discussed further in the preamble of this rule where the revisions are explained. BIS estimates that revisions that are editorial (*e.g.,* moving the location of control text on the CCL), or that are clarifications will result in no change in license application submissions. Regarding the self-classification notifications for License Exception ENC under collection 0694–137, 75% of encryption self-classification notifications are now entirely mass market submissions. Of those mass market submissions, BIS estimates that 80% of the encryption products in these submissions implement standards-based cryptography. Therefore, the elimination of encryption self-classification notifications for encryption products that implement standards-based cryptography under License Exception ENC is anticipated to result in a 60% reduction of submissions. However, because all 18 license exceptions set forth in Part 740 of the EAR are bundled into one collection, the revisions included in this rule result in no change to the overall burden for collection 0694–0137.

Administrative Procedure Act and Regulatory Flexibility Act Requirements

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

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no

regulatory flexibility analysis is required, and none has been prepared.

List of Subjects

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research, Science and technology.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 734, 740, 742, 772 and 774 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 734—[AMENDED]

■ 1. The authority citation for part 734 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

■ 2. Section 734.4 is amended by revising the paragraph (b) subject heading and paragraphs (b)(1) introductory text and (b)(1)(i) to read as follows:

§ 734.4 *De minimis* U.S. content.

* * * * *

(b) *Special requirements for certain Category 5, Part 2 items.** * *

(1) The U.S.-origin commodities or software, if controlled under ECCN 5A002, ECCN 5B002, equivalent or related software therefor classified under ECCN 5D002, and ''cryptanalytic items'' or digital forensics items (investigative tools) classified under ECCN 5A004 or 5D002, must have been:

(i) Publicly available encryption source code classified under ECCN 5D002 that has met the criteria specified in § 742.15(b), see § 734.3(b)(3) of the EAR. Such source code does not have to be counted as controlled U.S.-origin content in a *de minimis* calculation;

* * * * *

■ 3. Section 734.17 is amended by revising paragraph (b)(2) to read as follows:

§ 734.17 Export of encryption source code and object code software.

* * * * *

(b) * * *

(2) Making such ''software'' available for transfer outside the United States, over wire, cable, radio, electromagnetic, photo optical, photoelectric or other comparable communications facilities accessible to persons outside the United States, including transfers from electronic bulletin boards, internet file transfer protocol and World Wide websites, unless the person making the ''software'' available takes precautions adequate to prevent unauthorized transfer of such code. See § 742.15(b) of the EAR for additional requirements pursuant to which exports or reexports of encryption source code ''software'' are considered to be publicly available consistent with the provisions of § 734.3(b)(3). Publicly available encryption source code ''software'' and corresponding object code are not subject to the EAR, when the encryption source code ''software'' meets the additional requirements in § 742.15(b) of the EAR.

* * * * *

PART 740—[AMENDED]

■ 4. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 5. Section 740.9 is amended by revising paragraph (c)(8) to read as follows:

§ 740.9 Temporary Imports, Exports, Reexports, and Transfers (in-country) (TMP).

* * * * *

(c) * * *

(8) *Notification of beta test encryption software implementing ''non-standard cryptography.''* For beta test encryption software eligible under this license exception that provides or performs ''non-standard cryptography'' as defined in part 772 of the EAR, by the time of export or reexport you must submit the information described in paragraphs (a) through (d) of supplement No. 6 to part 742 of the EAR by email to BIS at *crypt@bis.doc.gov* and to the ENC Encryption Request Coordinator at *enc@nsa.gov.*

* * * * *

■ 6. Section 740.13 is amended by revising paragraph (d)(2) to read as follows:

§ 740.13 Technology and software—unrestricted (TSU).

* * * * *

(d) * * *

(2) *Exclusions.* The provisions of this paragraph (d) are not available for encryption software controlled for ''EI'' reasons under ECCN 5D002 or for encryption software with symmetric key length exceeding 64-bits that qualifies as mass market encryption software under the criteria in the Cryptography Note (Note 3) of Category 5, Part 2, of the CCL (supplement No. 1 to part 774 of the EAR). (Once such mass market encryption software has been released from ''EI'' and ''NS'' controls pursuant to § 740.17(b) of the EAR, it is controlled under ECCN 5D992.c and is thus outside the scope of License Exception TSU.) See § 740.17(b) of the EAR for exports and reexports of mass market encryption products controlled under ECCN 5D992.c.

* * * * *

■ 7. Section 740.17 is amended by:
■ a. Revising the paragraph (b) subject heading;
■ b. Revising the first sentence of paragraph (b) introductory text;
■ c. Revising the last sentence of paragraph (b)(3) introductory text;
■ d. Revising paragraph (b)(3)(i) introductory text;
■ e. Revising paragraph (e)(3) introductory text; and
■ f. Adding a note to paragraph (e)(3) introductory text.

The revisions and addition read as follows:

§ 740.17 Encryption Commodities, Software and Technology (ENC).

* * * * *

(b) *Classification request or self-classification.* For certain products described in paragraph (b)(1) of this section that are self-classified, a self-classification report in accordance with paragraph (e)(3) of this section is required from specified exporters, reexporters and transferors; for products described in paragraph (b)(1) of this section that are classified by BIS via a CCATS, a self-classification report is not required. * * *

(3) * * * Thirty (30) days after a classification request is submitted to BIS in accordance with paragraph (d) of this section and subject to the reporting requirements in paragraph (e) of this section, this paragraph authorizes exports, reexports, and transfers (in-country) of the items submitted for classification, as further described in

this paragraph (b)(3), to any end user, provided the item does not perform the functions, or otherwise meet the specifications, of any item described in paragraph (b)(2) of this section. Items described in paragraph (b)(3)(ii) or (iv) of this section that meet the criteria set forth in Note 3 to Category 5—Part 2 of the CCL (the ''mass market'' note) are classified under ECCN 5A992.c or 5D992.c following classification by BIS.

* * * * *

(i) *Non-''mass market'' ''components,'' toolsets, and toolkits.* Specified components classified under ECCN 5A002.a and equivalent or related software classified under ECCN 5D002 that do not meet the criteria set forth in Note 3 to Category 5—Part 2 of the CCL (the ''mass market'' note) and are not described by paragraph (b)(2) or (b)(3)(ii) of this section, as follows:

* * * * *

(e) * * *

(3) *Self-classification reporting for certain encryption commodities, software, and components.* This paragraph (e)(3) sets forth requirements for self-classification reporting to BIS and the ENC Encryption Request Coordinator (Ft. Meade, MD) of certain encryption commodities, software, and components exported or reexported meeting the criteria specified in paragraph (b)(1) of this section. Specifically, this reporting requirement applies to ''mass market'' encryption components and 'executable software' that meet the criteria of the Cryptography Note—Note 3 to Category 5—Part 2 of the CCL (''mass market'' note) and are classified under ECCN 5A992.c or 5D992.c following self-classification, as well as to non-''mass market'' encryption commodities and software that remain classified in ECCN 5A002, 5B002 or 5D002 following self-classification, provided these items are not further described by paragraph (b)(2) or (3) of this section.

Note to introductory text of paragraph (e)(3): For the purposes of this paragraph (e)(3), 'executable software' means ''software'' in executable form, from an existing hardware component excluded from ECCN 5A002 by the Cryptography Note. 'Executable software' does not include complete binary images of the ''software'' running on an end item.

* * * * *

PART 742—[AMENDED]

■ 8. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23, 68 FR 26459, 3 CFR, 2004 Comp., p. 320; Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

■ 9. Section 742.15 is amended by revising paragraph (b)(2) to read as follows:

§ 742.15 Encryption items.

* * * * *

(b) * * *

(2) *Notification requirement for ''non-standard cryptography.''* For publicly available encryption source code classified under ECCN 5D002 that provides or performs ''non-standard cryptography'' as defined in part 772 of the EAR, you must notify BIS and the ENC Encryption Request Coordinator via email of the internet location (*e.g.,* URL or internet address) of the source code or provide each of them a copy of the publicly available encryption source code. If you update or modify the source code, you must also provide additional copies to each of them each time the cryptographic functionality of the source code is updated or modified. In addition, if you posted the source code on the internet, you must notify BIS and the ENC Encryption Request Coordinator each time the internet location is changed, but you are not required to notify them of updates or modifications made to the encryption source code at the previously notified location. In all instances, submit the notification or copy to *crypt@bis.doc.gov* and to *enc@nsa.gov.*

* * * * *

PART 772—[AMENDED]

■ 10. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 11. Section 772.1 is amended by:

■ a. Adding a definition for ''equivalent standards'' in alphabetical order;

■ b. Removing the definition of ''instrumented range''; and

■ c. Revising the definitions of ''personal area network (Cat 5 Part 2)'' and ''superalloy''.

The addition and revisions read as follows:

§ 772.1 Definitions of Terms As Used In the Export Administration Regulations (EAR).

* * * * *

Equivalent standards. (Cat 1)—Comparable national or international standards recognized by one or more Wassenaar Arrangement Participating States and applicable to the relevant entry.

* * * * *

Personal area network (Cat 5 Part 2)—A data communication system having all of the following characteristics:

(1) Allows an arbitrary number of independent or interconnected 'data devices' to communicate directly with each other; and

(2) Is confined to the communication between devices within the immediate physical vicinity of an individual person or device controller (*e.g.,* single room, office, or automobile).

Technical Notes:

1. 'Data device' means equipment capable of transmitting or receiving sequences of digital information.

2. The ''local area network'' extends beyond the geographical area of the ''personal area network''.

* * * * *

Superalloy. (Cat 2 and 9) Nickel, cobalt, or iron base alloys having a stress rupture life greater than 1,000 hours at 400 MPa and an ultimate tensile strength greater than 850 MPa, at 922 K (649 °C) or higher.

* * * * *

PART 774—[AMENDED]

■ 12. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 8720; 10 U.S.C. 8730(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

Supplement No. 1 to Part 774—[Amended]

■ 13. In supplement no. 1 to part 774 (the CCL), Category 0, ECCN 0A502 is revised to read as follow:

Supplement No. 1 to Part 774—The Commerce Control List

0A502 Shotguns; shotguns ''parts'' and ''components,'' consisting of complete trigger mechanisms; magazines and magazine extension tubes; ''complete breech mechanisms;'' except equipment used to slaughter domestic animals or used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use.

License Requirements

Reason for Control: RS, CC, FC, UN, AT, NS

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to shotguns with a barrel length less than 18 inches (45.72 cm).	NS Column 1
RS applies to shotguns with a barrel length less than 18 inches (45.72 cm).	RS Column 1
FC applies to entire entry ..	FC Column 1
CC applies to shotguns with a barrel length less than 24 in. (60.96 cm) and shotgun ''components'' controlled by this entry regardless of end user.	CC Column 1
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm), regardless of end user.	CC Column 2
CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3
UN applies to entire entry	See § 746.1(b) of the EAR for UN controls
AT applies to shotguns with a barrel length less than 18 inches (45.72 cm).	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $500 for 0A502 shotgun ''parts'' and ''components,'' consisting of complete trigger mechanisms; magazines and magazine extension tubes. $500 for 0A502 shotgun ''parts'' and ''components,'' consisting of complete trigger mechanisms; magazines and magazine extension tubes, ''complete breech mechanisms'' if the ultimate destination is Canada.
GBS: N/A

List of Items Controlled

Related Controls: Shotguns that are fully automatic are ''subject to the ITAR.''
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

Note 1 to 0A502: *Shotguns made in or before 1898 are considered antique shotguns and designated as EAR99.*

Technical Note: *Shot pistols or shotguns that have had the shoulder stock removed and a pistol grip attached are controlled by ECCN 0A502. Slug guns are also controlled under ECCN 0A502.*

■ 14. In supplement no. 1 to part 774 (the CCL), Category 0, ECCN 0A503 is revised to read as follow:

0A503 Discharge type arms; non-lethal or less-lethal grenades and projectiles, and ''specially designed'' ''parts'' and ''components'' of those projectiles; and devices to administer electric shock, for example, stun guns, shock batons, shock shields, electric cattle prods, immobilization guns and projectiles; except equipment used to slaughter domestic animals or used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and ''specially designed'' ''parts'' and ''components,'' n.e.s.

License Requirements

Reason for Control: CC, UN

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
CC applies to entire entry.	A license is required for ALL destinations, except Canada, regardless of end use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information)
UN applies to entire entry.	See § 746.1(b) of the EAR for UN controls

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: Law enforcement restraint devices that administer an electric shock are controlled under ECCN 0A982. Electronic devices that monitor and report a person's location to enforce restrictions on movement for law enforcement or penal reasons are controlled under ECCN 3A981.
Related Definitions: N/A
Items: The list of items controlled is contained in the ECCN heading.

■ 15. In supplement no. 1 to part 774 (the CCL), Category 0, ECCN 0A606 is revised to read as follow:

0A606 Ground vehicles and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry, except 0A606.b and .y.	NS Column 1
NS applies to 0A606.b.	NS Column 2
RS applies to entire entry, except 0A606.b and .y.	RS Column 1
RS applies to 0A606.b.	RS Column 2
RS applies to 0A606.y.	China, Russia, or Venezuela (see § 742.6(a)(7))
AT applies to entire entry.	AT Column 1
UN applies to entire entry, except 0A606.y.	See § 746.1(b) for UN controls

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $1500
GBS: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for any item in 0A606.a, unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for 9x515 and ''600 series'' items). (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 0A606.

List of Items Controlled

Related Controls: (1) The ground vehicles, other articles, technical data (including software) and services described in 22 CFR part 121, Category VII are subject to the jurisdiction of the International Traffic in Arms Regulations. (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of U.S.-origin ''600 series'' controlled content.
Related Definitions: N/A
Items:

a. Ground vehicles, whether manned or unmanned, ''specially designed'' for a military use and not enumerated or otherwise described in USML Category VII.

Note 1 to paragraph .a: *For purposes of paragraph .a, ''ground vehicles'' include (i) tanks and armored vehicles manufactured prior to 1956 that have not been modified since 1955 and that do not contain a functional weapon or a weapon capable of becoming functional through repair; (ii) military railway trains except those that are armed or are ''specially designed'' to launch missiles; (iii) unarmored military recovery and other support vehicles; (iv) unarmored, unarmed vehicles with mounts or hard points for firearms of .50 caliber or less; and (v) trailers ''specially designed'' for use with other ground vehicles enumerated in USML Category VII or ECCN 0A606.a, and not separately enumerated or otherwise described in USML Category VII. For purposes of this note, the term ''modified'' does not include incorporation of safety features required by law, cosmetic changes (e.g., different paint or repositioning of bolt holes) or addition of ''parts'' or ''components'' available prior to 1956.*

Note 2 to paragraph .a: *A ground vehicle's being ''specially designed'' for*

military use for purposes of determining controls under paragraph .a. entails a structural, electrical or mechanical feature involving one or more ''components'' that are ''specially designed'' for military use. Such ''components'' include:

a. Pneumatic tire casings of a kind ''specially designed'' to be bullet-proof;

b. Armored protection of vital ''parts'' (e.g., fuel tanks or vehicle cabs);

c. Special reinforcements or mountings for weapons;

d. Black-out lighting.

b. Other ground vehicles, ''parts'' and ''components,'' as follows:

b.1. Unarmed vehicles that are derived from civilian vehicles and that have all of the following:

b.1.a. Manufactured or fitted with materials or ''components'' other than reactive or electromagnetic armor to provide ballistic protection equal to or better than level III (National Institute of Justice standard 0108.01, September 1985) or ''equivalent standards'';

b.1.b. A transmission to provide drive to both front and rear wheels simultaneously, including those for vehicles having additional wheels for load bearing purposes whether driven or not;

b.1.c. Gross vehicle weight rating (GVWR) greater than 4,500 kg; *and*

b.1.d. Designed or modified for off-road use.

b.2. ''Parts'' and ''components'' having all of the following:

b.2.a. ''Specially designed'' for vehicles specified in paragraph .b.1 of this entry; *and*

b.2.b. Providing ballistic protection equal to or better than level III (National Institute of Justice standard 0108.01, September 1985) or ''equivalent standards''.

Note 1 to paragraph b: *Ground vehicles otherwise controlled by 0A606.b.1 that contain reactive or electromagnetic armor are subject to the controls of USML Category VII.*

Note 2 to paragraph b: *ECCN 0A606.b.1 does not control civilian vehicles ''specially designed'' for transporting money or valuables.*

Note 3 to paragraph b: *''Unarmed'' means not having installed weapons, installed mountings for weapons, or special reinforcements for mounts for weapons.*

c. Air-cooled diesel engines and engine blocks for armored vehicles that weigh more than 40 tons.

d. Fully automatic continuously variable transmissions for tracked combat vehicles.

e. Deep water fording kits ''specially designed'' for ground vehicles controlled by ECCN 0A606.a or USML Category VII.

f. Self-launching bridge ''components'' not enumerated in USML Category VII(g) ''specially designed'' for deployment by ground vehicles enumerated in USML Category VII or this ECCN.

g. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity enumerated or otherwise described in ECCN 0A606 (other than 0A606.b or 0A606.y) or a defense article enumerated in USML Category VII and not elsewhere specified on the USML or in 0A606.y.

Note 1: *Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacture where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 0A606.x are controlled by ECCN 0A606.x.*

Note 2: *''Parts,'' ''components,'' ''accessories'' and ''attachments'' enumerated in USML paragraph VII(g) are subject to the controls of that paragraph. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' described in ECCN 0A606.y are subject to the controls of that paragraph.*

y. Specific ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for a commodity enumerated or otherwise described in this ECCN (other than ECCN 0A606.b) or for a defense article in USML Category VII and not elsewhere specified on the USML or the CCL, as follows, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor:

y.1. Brake discs, rotors, drums, calipers, cylinders, pads, shoes, lines, hoses, vacuum boosters, and parts therefor;

y.2. Alternators and generators;

y.3. Axles;

y.4. Batteries;

y.5. Bearings (*e.g.,* ball, roller, wheel);

y.6. Cables, cable assembles, and connectors;

y.7. Cooling system hoses;

y.8. Hydraulic, fuel, oil, and air filters, not controlled by ECCN 1A004;

y.9. Gaskets and o-rings;

y.10. Hydraulic system hoses, fittings, couplings, adapters, and valves;

y.11. Latches and hinges;

y.12. Lighting systems, fuses, and ''components;''

y.13. Pneumatic hoses, fittings, adapters, couplings, and valves;

y.14. Seats, seat assemblies, seat supports, and harnesses;

y.15 Tires, except run flat; and

y.16 Windows, except those for armored vehicles.

■ 16. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1A002 is revised to read as follow:

1A002 ''Composite'' structures or laminates, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to 1A002.b.1 in the form of tubes with an inside diameter between 75 mm and 400 mm.	NP Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $1,500; N/A for NP; N/A for ''composite'' structures or laminates controlled by 1A002.a, having an organic ''matrix'' and made from materials controlled by 1C010.c or 1C010.d.
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in this entry to any of the destinations listed in Country Group A:6 (See Supplement No. 1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See ECCNs 1E001 (''development'' and ''production'') and 1E201 (''use'') for technology for items controlled by this entry. (2) Also see ECCNs 1A202, 1C010, 1C210, 9A010, and 9A110. (3) ''Composite'' structures ''specially designed'' for missile applications (including ''specially designed'' subsystems, ''parts,'' and ''components'') are controlled by ECCN 9A110. (4) ''Composite'' structures or laminates ''specially designed'' or prepared for use in separating uranium isotopes are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).
Related Definitions: N/A
Items:

a. Made from any of the following:

a.1. An organic ''matrix'' and ''fibrous or filamentary materials'' specified by 1C010.c or 1C010.d; *or*

a.2. Prepregs or preforms specified by 1C010.e;

b. Made from a metal or carbon ''matrix'', and any of the following:

b.1. Carbon ''fibrous or filamentary materials'' having all of the following:

b.1.a. A ''specific modulus'' exceeding 10.15×10^6 m; *and*

b.1.b. A ''specific tensile strength'' exceeding 17.7×10^4 m; *or*

b.2. Materials controlled by 1C010.c.

Note 1: *1A002 does not control ''composite'' structures or laminates made from epoxy resin impregnated carbon ''fibrous or filamentary materials'', for the repair of ''civil aircraft'' structures or laminates, having all of the following:*

a. An area not exceeding 1 m^2;

b. A length not exceeding 2.5 m; and

c. A width exceeding 15 mm.

Note 2: *1A002 does not control semi-finished items, ''specially designed'' for civilian applications as follows:*

a. Sporting goods;

b. Automotive industry;
c. Machine tool industry;
d. Medical applications.

Note 3: *1A002.b.1 does not apply to semi-finished items containing a maximum of two dimensions of interwoven filaments and ''specially designed'' for applications as follows:*
a. Metal heat-treatment furnaces for tempering metals;
b. Silicon boule production equipment.

Note 4: *1A002 does not apply to finished items ''specially designed'' for a specific application.*

Note 5: *1A002.b.1 does not apply to mechanically chopped, milled, or cut carbon ''fibrous or filamentary materials'' 25.0 mm or less in length.*

■ 17. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1A005 is revised to read as follow:

1A005 Body armor and ''specially designed'' ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, UN, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
UN applies to entire entry.	See § 746.1(b) for UN controls
AT applies to entire entry.	AT Column 1

License Requirements Notes: 1. Soft body armor not manufactured to military standards or specifications must provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008) to be controlled under 1A005.a. 2. For purposes of 1A005.a, military standards and specifications include, at a minimum, specifications for fragmentation protection.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: Yes, except UN

List of Items Controlled

Related Controls: (1) Bulletproof and bullet resistant vests (body armor) providing NIJ Type IV protection or greater are ''subject to the ITAR'' (see 22 CFR 121.1 Category X(a)). (2) Soft body armor and protective garments manufactured to military standards or specifications that provide protection equal to or less than NIJ level III or ''equivalent standards'' are classified under ECCN 1A613.d.1. (3) Hard armor plates providing NIJ level III or ''equivalent standard'' ballistic protection are classified under ECCN 1A613.d.2. (4) Police helmets and shields are classified under ECCN 0A979. (5) Other personal protective ''equipment'' ''specially designed'' for military applications not controlled by the USML or elsewhere in the CCL is classified under ECCN 1A613.e. (6) For ''fibrous or filamentary materials'' used in the manufacture of body armor, see ECCN 1C010.
Related Definitions: N/A
Items:

a. Soft body armor not manufactured to military standards or specifications, or to their equivalents, and ''specially designed'' ''components'' therefor;

b. Hard body armor plates that provide ballistic protection less than NIJ level III (NIJ 0101.06, July 2008) or ''equivalent standards''.

Notes to ECCN 1A005:
1. This entry does not control body armor when accompanying its user for the user's own personal protection.
2. This entry does not control body armor designed to provide frontal protection only from both fragment and blast from non-military explosive devices.
3. This entry does not apply to body armor designed to provide protection only from knife, spike, needle or blunt trauma.

■ 18. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1A006 is revised to read as follow:

1A006 Equipment, ''specially designed'' or modified for the disposal of Improvised Explosive Devices (IEDs), as follows (see List of Items Controlled), and ''specially designed'' ''components'' and ''accessories'' therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

License Requirement Note: *1A006 does not apply to equipment when accompanying its operator.*

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

List of Items Controlled

Related Controls: Equipment ''specially designed'' for military use for the disposal of IEDs is ''subject to the ITAR'' (see 22 CFR parts 120 through 130, including USML Category IV).
Related Definitions: N/A
Items:

a. Remotely operated vehicles;
b. 'Disruptors'.

Technical Note: *For the purpose of 1A006.b 'disruptors' are devices ''specially designed'' for the purpose of preventing the operation of an explosive device by projecting a liquid, solid or frangible projectile.*

Note: *1A006 does not apply to equipment when accompanying its operator.*

■ 19. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1A613 is revised to read as follow:

1A613 Armored and protective ''equipment'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry except 1A613.y.	NS Column 1
RS applies to entire entry except 1A613.y.	RS Column 1
RS applies 1A613.y ..	China, Russia, or Venezuela (see § 742.6(a)(7))
AT applies to entire entry.	AT Column 1
UN applies to entire entry, except 1A613.y.	See § 746.1(b) for UN controls

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $1500
GBS: N/A

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 1A613.

List of Items Controlled

Related Controls: (1) Defense articles, such as materials made from classified information, that are controlled by USML Category X or XIII of the ITAR, and technical data (including software) directly related thereto, are ''subject to the ITAR.'' (2) See ECCN 0A919 for foreign-made ''military commodities'' that incorporate more than a *de minimis* amount of US-origin ''600 series'' controlled content. (3) See ECCN 9A610.g for anti-gravity suits (''G-suits'') and pressure suits capable of operating at altitudes higher than 55,000 feet above sea level.
Related Definitions: References to ''NIJ Type'' protection are to the National Institute of Justice Classification guide at NIJ Standard 0101.06, Ballistic Resistance of Body Armor, and NIJ Standard 0108.01, Ballistic Resistant Protective Materials.
Items:

a. Metallic or non-metallic armored plate ''specially designed'' for military use and not controlled by the USML.

Note to paragraph a: *For controls on body armor plates, see ECCN 1A613.d.2 and USML Category X(a)(1).*

b. Shelters ''specially designed'' to:

b.1. Provide ballistic protection for military systems; *or*

b.2. Protect against nuclear, biological, or chemical contamination.

c. Military helmets (other than helmets controlled under 1A613.y.1) providing less than NIJ Type IV or ''equivalent standards''

protection and ''specially designed'' helmet shells, liners, or comfort pads therefor.

Note 1: *See ECCN 0A979 for controls on police helmets.*

Note 2: *See USML Category X(a)(5) and (a)(6) for controls on other military helmets.*

d. Body armor and protective garments, as follows:

d.1. Soft body armor and protective garments manufactured to military standards or specifications, or to their equivalents, that provide ballistic protection equal to or less than NIJ level III (NIJ 0101.06, July 2008) or ''equivalent standards''; *or*

Note: *For 1A613.d.1, military standards or specifications include, at a minimum, specifications for fragmentation protection.*

d.2. Hard body armor plates that provide ballistic protection equal to NIJ level III (NIJ 0101.06, July 2008) or ''equivalent standards''.

Note: *See ECCN 1A005 for controls on soft body armor not manufactured to military standards or specifications and hard body armor plates providing less than NIJ level III or ''equivalent standards'' protection. For body armor providing NIJ Type IV protection or greater, see USML Category X(a)(1).*

e. Atmospheric diving suits ''specially designed'' for rescue operations for submarines controlled by the USML or the CCL.

f. Other personal protective ''equipment'' ''specially designed'' for military applications not controlled by the USML, not elsewhere controlled on the CCL.

g. to w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 1A613 (except for 1A613.y) or an article enumerated in USML Category X, and not controlled elsewhere in the USML.

Note: *Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 1A613.x are controlled by ECCN 1A613.x.*

y. Other commodities as follows:

y.1 Conventional military steel helmets.

N.B. to paragraph y.1: *For other military helmet ''components'' or ''accessories,'' see the relevant ECCN in the CCL or USML Entry.*

y.2 [Reserved]

■ 20. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1B002 is revised to read as follow:

1B002 Equipment designed to produce metal alloy powder or particulate materials and having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $5000
GBS: N/A

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. ''Specially designed'' to avoid contamination; *and*

b. ''Specially designed'' for use in one of the processes specified by 1C002.c.2.

■ 21. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1C001 is revised to read as follow:

1C001 Materials ''specially designed'' for absorbing electromagnetic radiation, or intrinsically conductive polymers, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
MT applies to items that meet or exceed the parameters of ECCN 1C101.	MT Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in this entry to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: See also 1C101
Related Definitions: N/A
Items:

a. Materials for absorbing frequencies exceeding 2 x 10^8 Hz but less than 3 x 10^{12} Hz.

Note 1: *1C001.a does not control:*

a. Hair type absorbers, constructed of natural or synthetic fibers, with non-magnetic loading to provide absorption;

b. Absorbers having no magnetic loss and whose incident surface is non-planar in shape, including pyramids, cones, wedges and convoluted surfaces;

c. Planar absorbers, having all of the following:

1. Made from any of the following:

a. Plastic foam materials (flexible or non-flexible) with carbon-loading, or organic materials, including binders, providing more than 5% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 450 K (177 °C); or

b. Ceramic materials providing more than 20% echo compared with metal over a bandwidth exceeding ±15% of the center frequency of the incident energy, and not capable of withstanding temperatures exceeding 800 K (527 °C);

Technical Note: *Absorption test samples for 1C001.a. Note 1.c.1 should be a square at least 5 wavelengths of the center frequency on a side and positioned in the far field of the radiating element.*

2. Tensile strength less than 7 x 10^6 N/m^2; and

3. Compressive strength less than 14 x 10^6 N/m^2;

d. Planar absorbers made of sintered ferrite, having all of the following:

1. A specific gravity exceeding 4.4; and

2. A maximum operating temperature of 548 K (275 °C) or less;

e. Planar absorbers having no magnetic loss and fabricated from 'open-cell foams' plastic material with a density of 0.15 grams/cm^3 or less.

Technical Note: *'Open-cell foams' are flexible and porous materials, having an inner structure open to the atmosphere. 'Open-cell foams' are also known as reticulated foams.*

Note 2: *Nothing in Note 1 releases magnetic materials to provide absorption when contained in paint.*

b. Materials not transparent to visible light and specially designed for absorbing near-infrared radiation having a wavelength exceeding 810 nm but less than 2,000 nm (frequencies exceeding 150 THz but less than 370 THz);

Note: *1C001.b does not apply to materials, ''specially designed'' or formulated for any of the following applications:*

a. ''Laser'' marking of polymers; or

b. ''Laser'' welding of polymers.

c. Intrinsically conductive polymeric materials with a 'bulk electrical conductivity' exceeding 10,000 S/m (Siemens per meter) or a 'sheet (surface) resistivity' of less than 100 ohms/square, based on any of the following polymers:

c.1. Polyaniline;

c.2. Polypyrrole;

c.3. Polythiophene;

c.4. Poly phenylene-vinylene; *or*

c.5. Poly thienylene-vinylene.

Note: *1C001.c does not apply to materials in a liquid form.*

Technical Note: *'Bulk electrical conductivity' and 'sheet (surface) resistivity'*

should be determined using ASTM D–257 or national equivalents.

■ 22. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1C002 is revised to read as follow:

1C002 Metal alloys, metal alloy powder and alloyed materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to 1C002.b.3 or b.4 if they exceed the parameters stated in 1C202.	NP Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $3000; N/A for NP
GBS: N/A

List of Items Controlled

Related Controls: (1) See ECCNs 1E001 (''development'' and ''production'') and 1E201 (''use'') for technology for items controlled by this entry. (2) Also see ECCN 1C202. (3) Aluminum alloys and titanium alloys in physical forms and finished products ''specially designed'' or prepared for use in separating uranium isotopes are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).
Related Definition: N/A
Items:

Note: *1C002 does not control metal alloys, metal alloy powder and alloyed materials, specially formulated for coating purposes.*

Technical Note 1: *The metal alloys in 1C002 are those containing a higher percentage by weight of the stated metal than of any other element.*

Technical Note 2: *'Stress-rupture life' should be measured in accordance with ASTM standard E–139 or national equivalents.*

Technical Note 3: *'Low cycle fatigue life' should be measured in accordance with ASTM Standard E–606 'Recommended Practice for Constant-Amplitude Low-Cycle Fatigue Testing' or national equivalents. Testing should be axial with an average stress ratio equal to 1 and a stress-concentration factor (K_t) equal to 1. The average stress ratio is defined as maximum stress minus minimum stress divided by maximum stress.*

a. Aluminides, as follows:

a.1. Nickel aluminides containing a minimum of 15% by weight aluminum, a maximum of 38% by weight aluminum and at least one additional alloying element;

a.2. Titanium aluminides containing 10% by weight or more aluminum and at least one additional alloying element;

b. Metal alloys, as follows, made from the powder or particulate material controlled by 1C002.c:

b.1. Nickel alloys having any of the following:

b.1.a. A 'stress-rupture life' of 10,000 hours or longer at 923 K (650 °C) at a stress of 676 MPa; *or*

b.1.b. A 'low cycle fatigue life' of 10,000 cycles or more at 823 K (550 °C) at a maximum stress of 1,095 MPa;

b.2. Niobium alloys having any of the following:

b.2.a. A 'stress-rupture life' of 10,000 hours or longer at 1,073 K (800 °C) at a stress of 400 MPa; *or*

b.2.b. A 'low cycle fatigue life' of 10,000 cycles or more at 973 K (700 °C) at a maximum stress of 700 MPa;

b.3. Titanium alloys having any of the following:

b.3.a. A 'stress-rupture life' of 10,000 hours or longer at 723 K (450 °C) at a stress of 200 MPa; *or*

b.3.b. A 'low cycle fatigue life' of 10,000 cycles or more at 723 K (450 °C) at a maximum stress of 400 MPa;

b.4 Aluminum alloys having any of the following:

b.4.a. A tensile strength of 240 MPa or more at 473 K (200 °C); *or*

b.4.b. A tensile strength of 415 MPa or more at 298 K (25 °C);

b.5. Magnesium alloys having all the following:

b.5.a. A tensile strength of 345 MPa or more; and

b.5.b. A corrosion rate of less than 1 mm/year in 3% sodium chloride aqueous solution measured in accordance with ASTM standard G–31 or national equivalents;

c. Metal alloy powder or particulate material, having all of the following:

c.1. Made from any of the following composition systems:

Technical Note: *X in the following equals one or more alloying elements.*

c.1.a. Nickel alloys (Ni-Al-X, Ni-X-Al) qualified for turbine engine ''parts'' or ''components,'' *i.e.,* with less than 3 non-metallic particles (introduced during the manufacturing process) larger than 100 μm in 10^9 alloy particles;

c.1.b. Niobium alloys (Nb-Al-X or Nb-X-Al, Nb-Si-X or Nb-X-Si, Nb-Ti-X or Nb-X-Ti);

c.1.c. Titanium alloys (Ti-Al-X or Ti-X-Al);

c.1.d. Aluminum alloys (Al-Mg-X or Al-X-Mg, Al-Zn-X or Al-X-Zn, Al-Fe-X or Al-X-Fe); *or*

c.1.e. Magnesium alloys (Mg-Al-X or Mg-X-Al);

c.2. Made in a controlled environment by any of the following processes:

c.2.a. 'Vacuum atomization';

c.2.b. 'Gas atomization';

c.2.c. 'Rotary atomization';

c.2.d. 'Splat quenching';

c.2.e. 'Melt spinning' and 'comminution';

c.2.f. 'Melt extraction' and 'comminution';

c.2.g. 'Mechanical alloying'; *or*

c.2.h. 'Plasma atomization'; *and*

c.3. Capable of forming materials controlled by 1C002.a or 1C002.b;

d. Alloyed materials, having all the following:

d.1. Made from any of the composition systems specified by 1C002.c.1;

d.2. In the form of uncomminuted flakes, ribbons or thin rods; *and*

d.3. Produced in a controlled environment by any of the following:

d.3.a. 'Splat quenching';

d.3.b. 'Melt spinning'; *or*

d.3.c. 'Melt extraction'.

Technical Notes:

1. *'Vacuum atomization' is a process to reduce a molten stream of metal to droplets of a diameter of 500* μm *or less by the rapid evolution of a dissolved gas upon exposure to a vacuum.*

2. *'Gas atomization' is a process to reduce a molten stream of metal alloy to droplets of 500* μm *diameter or less by a high pressure gas stream.*

3. *'Rotary atomization' is a process to reduce a stream or pool of molten metal to droplets of a diameter of 500* μm *or less by centrifugal force.*

4. *'Splat quenching' is a process to 'solidify rapidly' a molten metal stream impinging upon a chilled block, forming a flake-like product.*

5. *'Melt spinning' is a process to 'solidify rapidly' a molten metal stream impinging upon a rotating chilled block, forming a flake, ribbon or rod-like product.*

6. *'Comminution' is a process to reduce a material to particles by crushing or grinding.*

7. *'Melt extraction' is a process to 'solidify rapidly' and extract a ribbon-like alloy product by the insertion of a short segment of a rotating chilled block into a bath of a molten metal alloy.*

8. *'Mechanical alloying' is an alloying process resulting from the bonding, fracturing and rebonding of elemental and master alloy powders by mechanical impact. Non-metallic particles may be incorporated in the alloy by addition of the appropriate powders.*

9. *'Plasma atomization' is a process to reduce a molten stream or solid metal to droplets of 500* μm *diameter or less, using plasma torches in an inert gas environment.*

10. *'Solidify rapidly' is a process involving the solidification of molten material at cooling rates exceeding 1000 K/sec.*

■ 23. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1C006 is revised to read as follow:

1C006 Fluids and lubricating materials, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $3000

GBS: Yes for 1C006.d

List of Items Controlled

Related Controls: See also 1C996.
Related Definitions: N/A
Items:

a. [Reserved]

b. Lubricating materials containing, as their principal ingredients, any of the following:

b.1. Phenylene or alkylphenylene ethers or thio-ethers, or their mixtures, containing more than two ether or thio-ether functions or mixtures thereof; *or*

b.2. Fluorinated silicone fluids with a kinematic viscosity of less than 5,000 mm^2/s (5,000 centistokes) measured at 298 K (25 °C);

c. Damping or flotation fluids having all of the following:

c.1. Purity exceeding 99.8%;

c.2. Containing less than 25 particles of 200 µm or larger in size per 100 ml; *and*

c.3. Made from at least 85% of any of the following:

c.3.a.Dibromotetrafluoroethane (CAS 25497–30–7, 124–73–2, 27336–23–8);

c.3.b.Polychlorotrifluoroethylene (oily and waxy modifications only); *or*

c.3.c.Polybromotrifluoroethylene;

d. Fluorocarbon fluids designed for electronic cooling and having all of the following:

d.1. Containing 85% by weight or more of any of the following, or mixtures thereof:

d.1.a. Monomeric forms of perfluoropolyalkylether-triazines or perfluoroaliphatic-ethers;

d.1.b. Perfluoroalkylamines;

d.1.c. Perfluorocycloalkanes; *or*

d.1.d. Perfluoroalkanes;

d.2. Density at 298 K (25 °C) of 1.5 g/ml or more;

d.3. In a liquid state at 273 K (0 °C); *and*

d.4. Containing 60% or more by weight of fluorine.

Note: *1C006.d does not apply to materials specified and packaged as medical products.*

■ 24. In supplement no. 1 to part 774 (the CCL), Category 1, ECCN 1C010 is revised to read as follow:

1C010 ''Fibrous or filamentary materials'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
NP applies to 1C010.a (aramid ''fibrous or filamentary materials'', b (carbon ''fibrous and filamentary materials''), and e.1 for ''fibrous and filamentary materials'' that meet or exceed the control criteria of ECCN 1C210.	NP Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $1500, N/A for NP
GBS: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship any item in 1C010.c to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See ECCNs 1E001 (''development'' and ''production'') and 1E201 (''use'') for technology for items controlled by this entry. (2) Also see ECCNs 1C210 and 1C990. (3) See also 9C110 for material not controlled by 1C010.e, as defined by notes 1 or 2.
Related Definitions: (1.) ''Specific modulus'': Young's modulus in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2)°C) and a relative humidity of (50±5)%. (2.) ''Specific tensile strength'': Ultimate tensile strength in pascals, equivalent to N/m^2 divided by specific weight in N/m^3, measured at a temperature of (296±2) K ((23±2)°C) and a relative humidity of (50±5)%.
Items:

Technical Notes:

1. For the purpose of calculating ''specific tensile strength'', ''specific modulus'' or specific weight of ''fibrous or filamentary materials'' in 1C010.a, 1C010.b or 1C010.c, the tensile strength and modulus should be determined by using Method A described in ISO 10618 (2004) or national equivalents.

2. *Assessing the ''specific tensile strength'', ''specific modulus'' or specific weight of non-unidirectional ''fibrous or filamentary materials'' (e.g., fabrics, random mats or braids) in 1C010 is to be based on the mechanical properties of the constituent unidirectional monofilaments (e.g., monofilaments, yarns, rovings or tows) prior to processing into the non-unidirectional ''fibrous or filamentary materials''.*

a. Organic ''fibrous or filamentary materials'', having all of the following:

a.1. ''Specific modulus'' exceeding 12.7×10^6 m; *and*

a.2. ''Specific tensile strength'' exceeding 23.5×10^4 m;

Note: 1C010.a does not control polyethylene.

b. Carbon ''fibrous or filamentary materials'', having all of the following:

b.1. ''Specific modulus'' exceeding 14.65×10^6 m; *and*

b.2. ''Specific tensile strength'' exceeding 26.82×10^4 m;

Note: *1C010.b does not control:*

a. ''Fibrous or filamentary materials'', for the repair of ''civil aircraft'' structures or laminates, having all of the following:

1. An area not exceeding 1 m^2;

2. A length not exceeding 2.5 m; and

3. A width exceeding 15 mm.

b. Mechanically chopped, milled or cut carbon ''fibrous or filamentary materials'' 25.0 mm or less in length.

c. Inorganic ''fibrous or filamentary materials'', having all of the following:

c.1. Having any of the following:

c.1.a. Composed of 50% or more by weight silicon dioxide (SiO_2) and having a ''specific modulus'' exceeding 2.54×10^6 m; *or*

c.1.b. Not specified in 1C010.c.1.a and having a ''specific modulus'' exceeding 5.6×10^6 m; *and*

c.2. Melting, softening, decomposition or sublimation point exceeding 1,922 K (1,649 °C) in an inert environment;

Note: *1C010.c does not control:*

a. Discontinuous, multiphase, polycrystalline alumina fibers in chopped fiber or random mat form, containing 3% by weight or more silica, with a ''specific modulus'' of less than 10×10^6 m;

b. Molybdenum and molybdenum alloy fibers;

c. Boron fibers;

d. Discontinuous ceramic fibers with a melting, softening, decomposition or sublimation point lower than 2,043 K (1,770 °C) in an inert environment.

d. ''Fibrous or filamentary materials'', having any of the following:

d.1. Composed of any of the following:

d.1.a. Polyetherimides controlled by 1C008.a; *or*

d.1.b. Materials controlled by 1C008.b to 1C008.f; *or*

d.2. Composed of materials controlled by 1C010.d.1.a or 1C010.d.1.b and 'commingled' with other fibers controlled by 1C010.a, 1C010.b or 1C010.c;

Technical Note: *'Commingled' is filament to filament blending of thermoplastic fibers and reinforcement fibers in order to produce a fiber reinforcement ''matrix'' mix in total fiber form.*

e. Fully or partially resin impregnated or pitch impregnated ''fibrous or filamentary materials'' (prepregs), metal or carbon coated ''fibrous or filamentary materials'' (preforms) or 'carbon fiber preforms', having all of the following:

e.1. Having any of the following:

e.1.a. Inorganic ''fibrous or filamentary materials'' controlled by 1C010.c; *or*

e.1.b. Organic or carbon ''fibrous or filamentary materials'', having all of the following:

e.1.b.1. ''Specific modulus'' exceeding 10.15×10^6 m; *and*

e.1.b.2 ''Specific tensile strength'' exceeding 17.7×10^4 m; *and*

e.2. Having any of the following:

e.2.a. Resin or pitch, controlled by 1C008 or 1C009.b;

e.2.b. 'Dynamic Mechanical Analysis glass transition temperature (DMA T_g)' equal to or exceeding 453 K (180 °C) and having a phenolic resin; *or*

e.2.c. 'Dynamic Mechanical Analysis glass transition temperature (DMA T_g)' equal to or exceeding 505 K (232 °C) and having a resin or pitch, not specified by 1C008 or 1C009.b, and not being a phenolic resin;

Note 1: *Metal or carbon coated ''fibrous or filamentary materials'' (preforms) or 'carbon fiber preforms', not impregnated with resin or pitch, are specified by ''fibrous or filamentary materials'' in 1C010.a, 1C010.b or 1C010.c.*

Note 2: *1C010.e does not apply to:*

a. Epoxy resin ''matrix'' impregnated carbon ''fibrous or filamentary materials'' (prepregs) for the repair of ''civil aircraft'' structures or laminates, having all of the following:

1. An area not exceeding 1 m²;

2. A length not exceeding 2.5 m; and

3. A width exceeding 15 mm;

b. Fully or partially resin-impregnated or pitch-impregnated mechanically chopped, milled or cut carbon ''fibrous or filamentary materials'' 25.0 mm or less in length when using a resin or pitch other than those specified by 1C008 or 1C009.b.

Technical Notes:

1. 'Carbon fiber preforms' are an ordered arrangement of uncoated or coated fibers intended to constitute a framework of a part before the ''matrix'' is introduced to form a ''composite''.

2. The 'Dynamic Mechanical Analysis glass transition temperature (DMA T_g)' for materials controlled by 1C010.e is determined using the method described in ASTM D 7028 –07, or equivalent national standard, on a dry test specimen. In the case of thermoset materials, degree of cure of a dry test specimen shall be a minimum of 90% as defined by ASTM E 2160 04 or equivalent national standard.

■ 25. In supplement no. 1 to part 774, Category 2, ECCN 2A001 is revised to read as follows:

2A001 Anti-friction bearings, bearing systems and ''components,'' as follows, (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to radial ball bearings having all tolerances specified in accordance with ISO 492 Tolerance Class 2 (or ANSI/ABMA Std 20 Tolerance Class ABEC–9, or other national equivalents) or better and having all the following characteristics: an inner ring bore diameter between 12 and 50 mm; an outer ring outside diameter between 25 and 100 mm; and a width between 10 and 20 mm.	MT Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $3000, N/A for MT
GBS: Yes, for 2A001.a, N/A for MT

List of Items Controlled

Related Controls: (1) See also 2A991. (2) Quiet running bearings are ''subject to the ITAR'' (see 22 CFR parts 120 through 130.)
Related Definitions: Annular Bearing Engineers Committee (ABEC).
Items:

Note: *2A001.a includes ball bearing and roller elements ''specially designed'' for the items specified therein.*

a. Ball bearings and solid roller bearings, having all tolerances specified by the manufacturer in accordance with ISO 492 Tolerance Class 4 or Class 2 (or national equivalents), or better, and having both 'rings' and 'rolling elements', made from monel or beryllium;

Note: *2A001.a does not control tapered roller bearings.*

Technical Notes:

1. 'Ring'—annular part of a radial rolling bearing incorporating one or more raceways (ISO 5593:1997).

2. 'Rolling element'—ball or roller which rolls between raceways (ISO 5593:1997).

b. [Reserved]

c. Active magnetic bearing systems using any of the following, and ''specially designed'' components therefor:

c.1. Materials with flux densities of 2.0 T or greater and yield strengths greater than 414 MPa;

c.2. All-electromagnetic 3D homopolar bias designs for actuators; *or*

c.3. High temperature (450 K (177°C) and above) position sensors.

■ 26. In supplement no. 1 to part 774, Category 3, ECCN 3B001 is revised to read as follows:

3B001 Equipment for the manufacturing of semiconductor devices or materials, as follows (see List of Items Controlled) and ''specially designed'' ''components'' and ''accessories'' therefor.

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $500
GBS: Yes, except a.3 (molecular beam epitaxial growth equipment using gas sources), .e (automatic loading multi-chamber central wafer handling systems *only* if connected to equipment controlled by 3B001. a.3, or .f), and .f (lithography equipment).

List of Items Controlled

Related Controls: See also 3B991.
Related Definitions: N/A
Items:

a. Equipment designed for epitaxial growth as follows:

a.1. Equipment designed or modified to produce a layer of any material other than silicon with a thickness uniform to less than ± 2.5% across a distance of 75 mm or more;

Note: *3B001.a.1 includes atomic layer epitaxy (ALE) equipment.*

a.2. Metal Organic Chemical Vapor Deposition (MOCVD) reactors designed for compound semiconductor epitaxial growth of material having two or more of the following elements: aluminum, gallium, indium, arsenic, phosphorus, antimony, or nitrogen;

a.3. Molecular beam epitaxial growth equipment using gas or solid sources;

b. Equipment designed for ion implantation and having any of the following:

b.1. [Reserved]

b.2. Being designed and optimized to operate at a beam energy of 20 keV or more and a beam current of 10 mA or more for hydrogen, deuterium, or helium implant;

b.3. Direct write capability;

b.4. A beam energy of 65 keV or more and a beam current of 45 mA or more for high energy oxygen implant into a heated semiconductor material ''substrate''; *or*

b.5. Being designed and optimized to operate at beam energy of 20keV or more and a beam current of 10mA or more for silicon implant into a semiconductor material ''substrate'' heated to 600 °C or greater;

c. [Reserved]

d. [Reserved]

e. Automatic loading multi-chamber central wafer handling systems having all of the following:

e.1. Interfaces for wafer input and output, to which more than two functionally different 'semiconductor process tools' controlled by 3B001.a.1, 3B001.a.2, 3B001.a.3 or 3B001.b are designed to be connected; *and*

e.2. Designed to form an integrated system in a vacuum environment for 'sequential multiple wafer processing';

Note: *3B001.e does not control automatic robotic wafer handling systems ''specially designed'' for parallel wafer processing.*

Technical Notes:

1. For the purpose of 3B001.e, 'semiconductor process tools' refers to modular tools that provide physical processes for semiconductor production that are functionally different, such as deposition, implant or thermal processing.

2. For the purpose of 3B001.e, 'sequential multiple wafer processing' means the capability to process each wafer in different 'semiconductor process tools', such as by transferring each wafer from one tool to a second tool and on to a third tool with the automatic loading multi-chamber central wafer handling systems.

f. Lithography equipment as follows:

f.1. Align and expose step and repeat (direct step on wafer) or step and scan (scanner) equipment for wafer processing using photo-optical or X-ray methods and having any of the following:

f.1.a. A light source wavelength shorter than 193 nm; *or*

f.1.b. Capable of producing a pattern with a ''Minimum Resolvable Feature size'' (MRF) of 45 nm or less;

Technical Note: *The 'Minimum Resolvable Feature size' (MRF) is calculated by the following formula:*

$$MRF = \frac{(\text{an exposure light source wavelength in nm}) \times (\text{K factor})}{\text{numerical aperture}}$$

where the K factor = 0.35

f.2 Imprint lithography equipment capable of production features of 45 nm or less;

Note: *3B001.f.2 includes:*

—Micro contact printing tools
—Hot embossing tools
—Nano-imprint lithography tools
—Step and flash imprint lithography (S–FIL) tools

f.3. Equipment ''specially designed'' for mask making having all of the following:

f.3.a. A deflected focused electron beam, ion beam or ''laser'' beam; *and*

f.3.b. Having any of the following:

f.3.b.1. A Full-Width Half-Maximum (FWHM) spot size smaller than 65 nm and an image placement less than 17 nm (mean + 3 sigma); *or*

f.3.b.2. [Reserved]

f.3.b.3. A second-layer overlay error of less than 23 nm (mean + 3 sigma) on the mask;

f.4. Equipment designed for device processing using direct writing methods, having all of the following:

f.4.a. A deflected focused electron beam; *and*

f.4.b. Having any of the following:

f.4.b.1. A minimum beam size equal to or smaller than 15 nm; *or*

f.4.b.2. An overlay error less than 27 nm (mean + 3 sigma);

g. Masks and reticles, designed for integrated circuits controlled by 3A001;

h. Multi-layer masks with a phase shift layer not specified by 3B001.g and designed to be used by lithography equipment having a light source wavelength less than 245 nm;

Note: *3B001.h. does not control multi-layer masks with a phase shift layer designed for the fabrication of memory devices not controlled by 3A001.*

N.B.: *For masks and reticles, ''specially designed'' for optical sensors, see 6B002.*

i. Imprint lithography templates designed for integrated circuits by 3A001;

j. Mask ''substrate blanks'' with multilayer reflector structure consisting of molybdenum and silicon, and having all of the following:

j.1. ''Specially designed'' for 'Extreme Ultraviolet (EUV)' lithography; *and*

j.2. Compliant with SEMI Standard P37.

Technical Note: *'Extreme Ultraviolet (EUV)' refers to electromagnetic spectrum wavelengths greater than 5 nm and less than 124 nm.*

■ 27. In supplement no. 1 to part 774, Category 3, ECCN 3E002 is revised to read as follows:

3E002 ''**Technology**'' **according to the General Technology Note other than that controlled in 3E001 for the** ''**development**'' **or** ''**production**'' **of a** ''**microprocessor microcircuit**'', ''**microcomputer microcircuit**'' **and microcontroller microcircuit core, having an arithmetic logic unit with an access width of 32 bits or more and any of the following features or characteristics (see List of Items Controlled).**

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: Yes

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. A 'vector processor unit' designed to perform more than two calculations on 'floating-point' vectors (one-dimensional arrays of 32-bit or larger numbers) simultaneously;

Technical Note: *A 'vector processor unit' is a processor element with built-in instructions that perform multiple calculations on 'floating-point' vectors (one-dimensional arrays of 32-bit or larger numbers) simultaneously, having at least one vector arithmetic logic unit and vector registers of at least 32 elements each.*

b. Designed to perform more than four 64-bit or larger 'floating-point' operation results per cycle; *or*

c. Designed to perform more than eight 16-bit 'fixed-point' multiply-accumulate results per cycle (*e.g.,* digital manipulation of analog information that has been previously converted into digital form, also known as digital ''signal processing'').

Note 1: *3E002 does not control ''technology'' for multimedia extensions.*

Note 2: *3E002 does not control ''technology'' for microprocessor cores, having all of the following:*

a. Using ''technology'' at or above 0.130 µm; and

b. Incorporating multi-layer structures with five or fewer metal layers.

Note 3: *3E002 includes ''technology'' for the ''development'' or ''production'' of digital signal processors and digital array processors.*

Technical Notes:

1. For the purpose of 3E002.a and 3E002.b, 'floating-point' is defined by IEEE–754.

2. For the purpose of 3E002.c, 'fixed-point' refers to a fixed-width real number with both an integer component and a fractional component, and which does not include integer-only formats.

■ 28. In supplement no. 1 to part 774, Category 5 Part 2 is amended by revising the Nota Bene to Note 3 (Cryptography Note) to read as follows:

* * * * *

Category 5—Telecommunications and ''Information Security''

Part 2—''Information Security''

* * * * *

Note 3: * * *

N.B. to Note 3 (Cryptography Note): *You must submit a classification request or self-classification report to BIS for certain mass market encryption commodities and software eligible for the Cryptography Note employing a key length greater than 64 bits for the symmetric algorithm (or, for commodities and software not implementing any symmetric algorithms, employing a key length greater than 768 bits for asymmetric algorithms described by Technical note 2.b to 5A002.a or greater than 128 bits for elliptic curve algorithms, or any asymmetric algorithm described by Technical Note 2.c to 5A002.a) in accordance with the requirements of § 740.17(b) of the EAR in order to be released from the ''EI'' and ''NS'' controls of ECCN 5A002 or 5D002. For mass market commodities and software that do not require a self-classification report pursuant to § 740.17(b) and (e)(3) of the EAR, such items are also released from ''EI'' and ''NS'' controls and controlled under ECCN 5A992.c or 5D992.c.*

* * * * *

■ 28. In supplement no. 1 to part 774, Category 5 Part 2, ECCN 5A002 is revised to read as follows:

5A002 ''Information security'' systems, equipment and ''components,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT, EI

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
AT applies to entire entry.	AT Column 1
EI applies to entire entry.	Refer to § 742.15 of the EAR

License Requirements Note: *See § 744.17 of the EAR for additional license requirements for microprocessors having a processing speed of 5 GFLOPS or more and an arithmetic logic unit with an access width of 32 bit or more, including those incorporating ''information security'' functionality, and associated ''software'' and ''technology'' for the ''production'' or ''development'' of such microprocessors.*

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: Yes: $500 for ''components''. N/A for systems and equipment.

GBS: N/A

ENC: Yes for certain EI controlled commodities, see § 740.17 of the EAR for eligibility.

List of Items Controlled

Related Controls: (1) ECCN 5A002.a controls ''components'' providing the means or functions necessary for ''information security.'' All such ''components'' are presumptively ''specially designed'' and controlled by 5A002.a. (2) See USML Categories XI (including XI(b)) and XIII(b) (including XIII(b)(2)) for controls on systems, equipment, and components described in 5A002.d or .e that are subject to the ITAR. (3) For ''satellite navigation system'' receiving equipment containing or employing decryption see 7A005, and for related decryption ''software'' and ''technology'' see 7D005 and 7E001. (4) Noting that items may be controlled elsewhere on the CCL, examples of items not controlled by ECCN 5A002.a.4 include the following: (a) An automobile where the only 'cryptography for data confidentiality' having a 'described security algorithm' is performed by a Category 5—Part 2 Note 3 eligible mobile telephone that is built into the car. In this case, secure phone communications support a non-primary function of the automobile but the mobile telephone (equipment), as a standalone item, is not controlled by ECCN 5A002 because it is excluded by the Cryptography Note (Note 3) (See ECCN 5A992.c). (b) An exercise bike with an embedded Category 5—Part 2 Note 3 eligible web browser, where the only controlled cryptography is performed by the web browser. In this case, secure web browsing supports a non-primary function of the exercise bike but the web browser (''software''), as a standalone item, is not controlled by ECCN 5D002 because it is excluded by the Cryptography Note (Note 3) (See ECCN 5D992.c). (5) After classification or self-classification in accordance with § 740.17(b) of the EAR, mass market encryption commodities that meet eligibility requirements are released from ''EI'' and ''NS'' controls. These commodities are designated 5A992.c.

Related Definitions: N/A

Items:

a. Designed or modified to use 'cryptography for data confidentiality' having a 'described security algorithm', where that cryptographic capability is usable, has been activated, or can be activated by any means other than secure ''cryptographic activation'', as follows:

a.1. Items having ''information security'' as a primary function;

a.2. Digital communication or networking systems, equipment or components, not specified in paragraph 5A002.a.1;

a.3. Computers, other items having information storage or processing as a primary function, and components therefor, not specified in paragraphs 5A002.a.1 or .a.2;

N.B.: *For operating systems see also 5D002.a.1 and .c.1.*

a.4. Items, not specified in paragraphs 5A002.a.1 to a.3, where the 'cryptography for data confidentiality' having a 'described security algorithm' meets all of the following:

a.4.a. It supports a non-primary function of the item; *and*

a.4.b. It is performed by incorporated equipment or ''software'' that would, as a standalone item, be specified by ECCNs 5A002, 5A003, 5A004, 5B002 or 5D002.

N.B. to paragraph a.4: *See Related Control Paragraph (4) of this ECCN 5A002 for examples of items not controlled by 5A002.a.4.*

Technical Notes:

1. For the purposes of 5A002.a, 'cryptography for data confidentiality' means ''cryptography'' that employs digital techniques and performs any cryptographic function other than any of the following:

1.a. ''Authentication;''

1.b. Digital signature;

1.c. Data integrity;

1.d. Non-repudiation;

1.e. Digital rights management, including the execution of copy-protected ''software;''

1.f. Encryption or decryption in support of entertainment, mass commercial broadcasts or medical records management; or

1.g. Key management in support of any function described in paragraphs 1.a to 1.f of this Technical Note paragraph 1.

2. For the purposes of 5A002.a, 'described security algorithm' means any of the following:

2.a. A ''symmetric algorithm'' employing a key length in excess of 56 bits, not including parity bits;

2.b. An ''asymmetric algorithm'' where the security of the algorithm is based on any of the following:

2.b.1. Factorization of integers in excess of 512 bits (e.g., RSA);

2.b.2. Computation of discrete logarithms in a multiplicative group of a finite field of size greater than 512 bits (e.g., Diffie-Hellman over Z/pZ); or

2.b.3. Discrete logarithms in a group other than mentioned in paragraph 2.b.2 of this Technical Note in excess of 112 bits (e.g., Diffie-Hellman over an elliptic curve); or

2.c. An ''asymmetric algorithm'' where the security of the algorithm is based on any of the following:

2.c.1. Shortest vector or closest vector problems associated with lattices (e.g., NewHope, Frodo, NTRUEncrypt, Kyber, Titanium);

2.c.2. Finding isogenies between Supersingular elliptic curves (e.g., Supersingular Isogeny Key Encapsulation); or

2.c.3. Decoding random codes (e.g., McEliece, Niederreiter).

Technical Note: *An algorithm described by Technical Note 2.c. may be referred to as being post-quantum, quantum-safe or quantum-resistant.*

Note 1: *Details of items must be accessible and provided upon request, in order to establish any of the following:*

a. Whether the item meets the criteria of 5A002.a.1 to a.4; or

b. Whether the cryptographic capability for data confidentiality specified by 5A002.a is usable without ''cryptographic activation.''

Note 2: *5A002.a does not control any of the following items, or specially designed ''information security'' components therefor:*

a. Smart cards and smart card 'readers/writers' as follows:

a.1. A smart card or an electronically readable personal document (e.g., token coin, e-passport) that meets any of the following:

a.1.a. The cryptographic capability meets all of the following:

a.1.a.1. It is restricted for use in any of the following:

a.1.a.1.a. Equipment or systems, not described by 5A002.a.1 to a.4;

a.1.a.1.b. Equipment or systems, not using 'cryptography for data confidentiality' having a 'described security algorithm'; or

a.1.a.1.c. Equipment or systems, excluded from 5A002.a by entries b. to f. of this Note; and

a.1.a.2. It cannot be reprogrammed for any other use; or

a.1.b. Having all of the following:

a.1.b.1. It is specially designed and limited to allow protection of 'personal data' stored within;

a.1.b.2. Has been, or can only be, personalized for public or commercial transactions or individual identification; and

a.1.b.3. Where the cryptographic capability is not user-accessible;

Technical Note to paragraph a.1.b of Note 2: *'Personal data' includes any data specific to a particular person or entity, such as the amount of money stored and data necessary for ''authentication.''*

a.2. 'Readers/writers' specially designed or modified, and limited, for items specified by paragraph a.1 of this Note;

Technical Note to paragraph a.2 of Note 2: *'Readers/writers' include equipment that communicates with smart cards or electronically readable documents through a network.*

b. Cryptographic equipment specially designed and limited for banking use or 'money transactions';

Technical Note to paragraph b. of Note 2: *'Money transactions' in 5A002 Note 2 paragraph b. includes the collection and settlement of fares or credit functions.*

c. Portable or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radio communication systems) that are not capable of transmitting encrypted data directly to another radiotelephone or equipment (other than Radio Access Network (RAN) equipment), nor of passing encrypted data through RAN equipment (e.g., Radio Network Controller (RNC) or Base Station Controller (BSC));

d. Cordless telephone equipment not capable of end-to-end encryption where the maximum effective range of unboosted cordless operation (i.e., a single, unrelayed hop between terminal and home base station) is less than 400 meters according to the manufacturer's specifications;

e. Portable or mobile radiotelephones and similar client wireless devices for civil use, that implement only published or commercial cryptographic standards (except for anti-piracy functions, which may be non-published) and also meet the provisions of paragraphs a.2 to a.4 of the Cryptography Note (Note 3 in Category 5—Part 2), that have been customized for a specific civil industry application with features that do not affect the cryptographic functionality of these original non-customized devices;

f. Items, where the ''information security'' functionality is limited to wireless ''personal area network'' functionality implementing only published or commercial cryptographic standards;

g. Mobile telecommunications Radio Access Network (RAN) equipment designed for civil use, which also meet the provisions of paragraphs a.2 to a.4 of the Cryptography Note (Note 3 in Category 5—Part 2), having an RF output power limited to 0.1W (20 dBm) or less, and supporting 16 or fewer concurrent users;

h. Routers, switches, gateways or relays, where the ''information security'' functionality is limited to the tasks of ''Operations, Administration or Maintenance'' (''OAM'') implementing only published or commercial cryptographic standards;

i. General purpose computing equipment or servers, where the ''information security'' functionality meets all of the following:

i.1. Uses only published or commercial cryptographic standards; and

i.2. Is any of the following:

i.2.a. Integral to a CPU that meets the provisions of Note 3 in Category 5—Part 2;

i.2.b. Integral to an operating system that is not specified by 5D002; or

i.2.c. Limited to ''OAM'' of the equipment; or

j. Items specially designed for a 'connected civil industry application', meeting all of the following:

j.1. Being any of the following:

j.1.a. A network-capable endpoint device meeting any of the following:

j.1.a.1. The ''information security'' functionality is limited to securing 'non-arbitrary data' or the tasks of ''Operations, Administration or Maintenance'' (''OAM''); or

j.1.a.2. The device is limited to a specific 'connected civil industry application'; or

j.1.b. Networking equipment meeting all of the following:

j.1.b.1. Being specially designed to communicate with the devices specified by paragraph j.1.a. above; and

j.1.b.2. The ''information security'' functionality is limited to supporting the 'connected civil industry application' of devices specified by paragraph j.1.a. above, or the tasks of ''OAM'' of this networking equipment or of other items specified by paragraph j. of this Note; and

j.2. Where the ''information security'' functionality implements only published or commercial cryptographic standards, and the cryptographic functionality cannot easily be changed by the user.

Technical Notes:

1. 'Connected civil industry application' means a network-connected consumer or civil industry application other than ''information security'', digital communication, general purpose networking or computing.

2. 'Non-arbitrary data' means sensor or metering data directly related to the stability, performance or physical measurement of a system (e.g., temperature, pressure, flow rate, mass, volume, voltage, physical location, etc.), that cannot be changed by the user of the device.

b. Being a 'cryptographic activation token';

Technical Note: *A 'cryptographic activation token' is an item designed or modified for any of the following:*

1. Converting, by means of ''cryptographic activation'', an item not specified by Category 5—Part 2 into an item specified by 5A002.a or 5D002.c.1, and not released by the Cryptography Note (Note 3 in Category 5—Part 2); or

2. Enabling by means of ''cryptographic activation'', additional functionality specified by 5A002.a of an item already specified by Category 5—Part 2;

c. Designed or modified to use or perform ''quantum cryptography'';

Technical Note: *''Quantum cryptography'' is also known as Quantum Key Distribution (QKD).*

d. Designed or modified to use cryptographic techniques to generate channelizing codes, scrambling codes or network identification codes, for systems using ultra-wideband modulation techniques and having any of the following:

d.1. A bandwidth exceeding 500 MHz; *or*

d.2. A ''fractional bandwidth'' of 20% or more;

e. Designed or modified to use cryptographic techniques to generate the spreading code for ''spread spectrum'' systems, not specified by 5A002.d, including the hopping code for ''frequency hopping'' systems.

■ 29. In supplement no. 1 to part 774, Category 6, ECCN 6A004 is revised to read as follows:

6A004 Optical equipment and ''components,'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License

Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $3000
GBS: Yes for 6A004.a.1, a.2, a.4, .b, d.2, and .f.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA may not be used to ship any commodity in 6A004.c or .d to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) For optical mirrors or 'aspheric optical elements' ''specially designed'' for lithography ''equipment,'' see ECCN 3B001. (2) See USML Category XII(e) for gimbals ''subject to the ITAR.'' (3) See also 6A994.
Related Definitions: An 'aspheric optical element' is any element used in an optical system whose imaging surface or surfaces are designed to depart from the shape of an ideal sphere.
Items:

a. Optical mirrors (reflectors) as follows:

Technical Note: *For the purpose of 6A004.a, Laser Induced Damage Threshold (LIDT) is measured according to ISO 21254–1:2011.*

a.1. 'Deformable mirrors' having an active optical aperture greater than 10 mm and having any of the following, and specially designed components therefor:

a.1.a. Having all the following:

a.1.a.1. A mechanical resonant frequency of 750 Hz or more; *and*

a.1.a.2. More than 200 actuators; *or*

a.1.b. A Laser Induced Damage Threshold (LIDT) being any of the following:

a.1.b.1. Greater than 1 kW/cm^2 using a ''CW laser''; *or*

a.1.b.2. Greater than 2 J/cm^2 using 20 ns ''laser'' pulses at 20 Hz repetition rate;

Technical Notes:

1. 'Deformable mirrors' are mirrors having any of the following:

a. A single continuous optical reflecting surface which is dynamically deformed by the application of individual torques or forces to compensate for distortions in the optical waveform incident upon the mirror; or

b. Multiple optical reflecting elements that can be individually and dynamically repositioned by the application of torques or forces to compensate for distortions in the optical waveform incident upon the mirror.

2. 'Deformable mirrors' are also known as adaptive optic mirrors.

a.2. Lightweight monolithic mirrors having an average ''equivalent density'' of less than 30 kg/m^2 and a total mass exceeding 10 kg;

a.3. Lightweight ''composite'' or foam mirror structures having an average ''equivalent density'' of less than 30 kg/m^2 and a total mass exceeding 2 kg;

Note: *6A004.a.2 and 6A004.a.3 do not apply to mirrors ''specially designed'' to direct solar radiation for terrestrial heliostat installations.*

a.4. Mirrors specially designed for beam steering mirror stages specified in 6A004.d.2.a with a flatness of λ/10 or better (λ is equal to 633 nm) and having any of the following:

a.4.a. Diameter or major axis length greater than or equal to 100 mm; *or*

a.4.b. Having all of the following:

a.4.b.1. Diameter or major axis length greater than 50 mm but less than 100 mm; *and*

a.4.b.2. A Laser Induced Damage Threshold (LIDT) being any of the following:

a.4.b.2.a. Greater than 10 kW/cm2 using a ''CW laser''; *or*

a.4.b.2.b. Greater than 20 J/cm2 using 20 ns ''laser'' pulses at 20 Hz repetition rate;

N.B. *For optical mirrors specially designed for lithography equipment, see 3B001.*

b. Optical ''components'' made from zinc selenide (ZnSe) or zinc sulphide (ZnS) with transmission in the wavelength range exceeding 3,000 nm but not exceeding 25,000 nm and having any of the following:

b.1. Exceeding 100 cm^3 in volume; *or*

b.2. Exceeding 80 mm in diameter or length of major axis and 20 mm in thickness (depth);

c. ''Space-qualified'' ''components'' for optical systems, as follows:

c.1. ''Components'' lightweighted to less than 20% ''equivalent density'' compared with a solid blank of the same aperture and thickness;

c.2. Raw substrates, processed substrates having surface coatings (single-layer or multi-layer, metallic or dielectric, conducting, semiconducting or insulating) or having protective films;

c.3. Segments or assemblies of mirrors designed to be assembled in space into an optical system with a collecting aperture equivalent to or larger than a single optic 1 m in diameter;

c.4. ''Components'' manufactured from ''composite'' materials having a coefficient of linear thermal expansion, in any coordinate direction, equal to or less than 5 x 10^{-6}/K;

d. Optical control equipment as follows:

d.1. Equipment ''specially designed'' to maintain the surface figure or orientation of the ''space-qualified'' ''components'' controlled by 6A004.c.1 or 6A004.c.3;

d.2. Steering, tracking, stabilisation and resonator alignment equipment as follows:

d.2.a. Beam steering mirror stages designed to carry mirrors having diameter or major axis length greater than 50 mm and having all of the following, and specially designed electronic control equipment therefor:

d.2.a.1. A maximum angular travel of ±26 mrad or more;

d.2.a.2. A mechanical resonant frequency of 500 Hz or more; *and*

d.2.a.3. An angular ''accuracy'' of 10 μrad (microradians) or less (better);

d.2.b. Resonator alignment equipment having bandwidths equal to or more than 100 Hz and an ''accuracy'' of 10 μrad or less (better);

d.3. Gimbals having all of the following:

d.3.a. A maximum slew exceeding 5°;

d.3.b. A bandwidth of 100 Hz or more;

d.3.c. Angular pointing errors of 200 μrad (microradians) or less; *and*

d.3.d. Having any of the following:

d.3.d.1. Exceeding 0.15 m but not exceeding 1 m in diameter or major axis length and capable of angular accelerations exceeding 2 rad (radians)/s^2; *or*

d.3.d.2. Exceeding 1 m in diameter or major axis length and capable of angular accelerations exceeding 0.5 rad (radians)/s^2;

d.4. [Reserved]

e. 'Aspheric optical elements' having all of the following:

e.1. Largest dimension of the optical-aperture greater than 400 mm;

e.2. Surface roughness less than 1 nm (rms) for sampling lengths equal to or greater than 1 mm; *and*

e.3. Coefficient of linear thermal expansion's absolute magnitude less than 3 x 10^{-6}/K at 25 °C;

Technical Note:

1. [See Related Definitions section of this ECCN]

2. Manufacturers are not required to measure the surface roughness listed in 6A004.e.2 unless the optical element was designed or manufactured with the intent to meet, or exceed, the control parameter.

Note: *6A004.e does not control 'aspheric optical elements' having any of the following:*

a. Largest optical-aperture dimension less than 1 m and focal length to aperture ratio equal to or greater than 4.5:1;

b. Largest optical-aperture dimension equal to or greater than 1 m and focal length to aperture ratio equal to or greater than 7:1;

c. Designed as Fresnel, flyeye, stripe, prism or diffractive optical elements;

d. Fabricated from borosilicate glass having a coefficient of linear thermal expansion greater than 2.5 x 10^{-6}/K at 25 °C; or

e. An x-ray optical element having inner mirror capabilities (e.g., tube-type mirrors).

f. Dynamic wavefront measuring equipment having all of the following:

f.1. 'Frame rates' equal to or more than 1 kHz; *and*

f.2. A wavefront accuracy equal to or less (better) than λ/20 at the designed wavelength.

Technical Note: *For the purposes of 6A004.f, 'frame rate' is a frequency at which all ''active pixels'' in the ''focal plane array'' are integrated for recording images projected by the wavefront sensor optics.*

■ 30. In supplement no. 1 to part 774, Category 6, ECCN 6A005 is revised to read as follows:

6A005 ''Lasers,'' ''components'' and optical equipment, as follows (see List of Items Controlled), excluding items that are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110).

License Requirements

Reason for Control: NS, NP, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NP applies to lasers controlled by 6A005.a.2, a.3, a.4, b.2.b, b.3, b.4, b.6.c, c.1.b, c.2.b, d.2, d.3.c, or d.4.c that meet or exceed the technical parameters described in 6A205.	NP Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: N/A for NP items, $3,000 for all other items

GBS: Neodymium-doped (other than glass) ''lasers'' controlled by 6A005.b.6.d.2 (except 6A005.b.6.d.2.b) that have an output wavelength exceeding 1,000 nm, but not exceeding 1,100 nm, and an average or CW output power not exceeding 2kW, and operate in a pulse-excited, non-''Q-switched'' multiple-transverse mode, or in a continuously excited, multiple-transverse mode; Dye and Liquid Lasers controlled by 6A005.c.1, c.2 and c.3, except for a pulsed single longitudinal mode oscillator having an average output power exceeding 1 W and a repetition rate exceeding 1 kHz if the ''pulse duration'' is less than 100 ns; CO ''lasers'' controlled by 6A005.d.2 having a CW maximum rated single or multimode output power not exceeding 10 kW; CO_2 or CO/CO_2 ''lasers'' controlled by 6A005.d.3 having an output wavelength in the range from 9,000 to 11,000 nm and having a pulsed output not exceeding 2 J per pulse and a maximum rated average single or multimode output power not exceeding 5 kW; and CO_2 ''lasers'' controlled by 6A005.d.3 that operate in CW multiple-transverse mode, and having a CW output power not exceeding 15kW.

List of Items Controlled

Related Controls: (1) See ECCN 6D001 for ''software'' for items controlled under this entry. (2) See ECCNs 6E001 (''development''), 6E002 (''production''), and 6E201 (''use'') for ''technology'' for items controlled under this entry. (3) Also see ECCNs 6A205 and 6A995. (4) See ECCN 3B001 for excimer ''lasers'' ''specially designed'' for lithography equipment. (5) ''Lasers'' ''specially designed'' or prepared for use in isotope separation are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR part 110). (6) See USML Category XII(b) and (e) for laser systems or lasers subject to the ITAR. (7) See USML Category XVIII for certain laser-based directed energy weapon systems, equipment, and components subject to the ITAR.

Related Definitions: (1) 'Wall-plug efficiency' is defined as the ratio of ''laser'' output power (or ''average output power'') to total electrical input power required to operate the ''laser'', including the power supply/conditioning and thermal conditioning/heat exchanger, see 6A005.a.6.b.1 and 6A005.b.6; (2) 'Non-repetitive pulsed' refers to ''lasers'' that produce either a single output pulse or that have a time interval between pulses exceeding one minute, see Note 2 of 6A005 and 6A005.d.6.

Items:

Notes:

1. Pulsed ''lasers'' include those that run in a continuous wave (CW) mode with pulses superimposed.

2. Excimer, semiconductor, chemical, CO, CO_2, and 'non-repetitive pulsed' Nd:glass ''lasers'' are only specified by 6A005.d.

Technical Note: *'Non-repetitive pulsed' refers to ''lasers'' that produce either a single output pulse or that have a time interval between pulses exceeding one minute.*

3. 6A005 includes fiber ''lasers''.

4. The control status of ''lasers'' incorporating frequency conversion (i.e., wavelength change) by means other than one ''laser'' pumping another ''laser'' is determined by applying the control parameters for both the output of the source ''laser'' and the frequency-converted optical output.

5. 6A005 does not control ''lasers'' as follows:

a. Ruby with output energy below 20 J;

b. Nitrogen;

c. Krypton.

6. For the purposes of 6A005.a and 6A005.b, 'single transverse mode' refers to ''lasers'' with a beam profile having an M^2-factor of less than 1.3, while 'multiple transverse mode' refers to ''lasers'' with a beam profile having an M^2-factor of 1.3 or higher.

a. Non-''tunable'' continuous wave ''(CW) lasers'' having any of the following:

a.1. Output wavelength less than 150 nm and output power exceeding 1 W;

a.2. Output wavelength of 150 nm or more but not exceeding 510 nm and output power exceeding 30 W;

Note: *6A005.a.2 does not control Argon ''lasers'' having an output power equal to or less than 50 W.*

a.3. Output wavelength exceeding 510 nm but not exceeding 540 nm and any of the following:

a.3.a. 'Single transverse mode' output and output power exceeding 50 W; *or*

a.3.b. 'Multiple transverse mode' output and output power exceeding 150 W;

a.4. Output wavelength exceeding 540 nm but not exceeding 800 nm and output power exceeding 30 W;

a.5. Output wavelength exceeding 800 nm but not exceeding 975 nm and any of the following:

a.5.a. 'Single transverse mode' output and output power exceeding 50 W; *or*

a.5.b. 'Multiple transverse mode' output and output power exceeding 80 W;

a.6. Output wavelength exceeding 975 nm but not exceeding 1,150 nm and any of the following;

a.6.a. 'Single transverse mode' output and any of the following:

a.6.a.1. Output power exceeding 1,000 W; *or*

a.6.a.2. Having all of the following:

a.6.a.2.a. Output power exceeding 500 W; *and*

a.6.a.2.b. Spectral bandwidth less than 40 GHz; *or*

a.6.b. 'Multiple transverse mode' output and any of the following:

a.6.b.1. 'Wall-plug efficiency' exceeding 18% and output power exceeding 1,000 W; or

a.6.b.2. Output power exceeding 2 kW;

Note 1: *6A005.a.6.b does not control 'multiple transverse mode', industrial ''lasers'' with output power exceeding 2 kW and not exceeding 6 kW with a total mass greater than 1,200 kg. For the purpose of this note, total mass includes all ''components'' required to operate the ''laser,'' e.g., ''laser,'' power supply, heat exchanger, but excludes external optics for beam conditioning or delivery.*

Note 2: *6A005.a.6.b does not apply to 'multiple transverse mode', industrial ''lasers'' having any of the following:*

a. [Reserved];

b. Output power exceeding 1 kW but not exceeding 1.6 kW and having a BPP exceeding 1.25 mm·mrad;

c. Output power exceeding 1.6 kW but not exceeding 2.5 kW and having a BPP exceeding 1.7 mm·mrad;

d. Output power exceeding 2.5 kW but not exceeding 3.3 kW and having a BPP exceeding 2.5 mm·mrad;

e. Output power exceeding 3.3 kW but not exceeding 6 kW and having a BPP exceeding 3.5 mm·mrad;

f. [Reserved]

g. [Reserved]

h. Output power exceeding 6 kW but not exceeding 8 kW and having a BPP exceeding 12 mm·mrad; or

i. Output power exceeding 8 kW but not exceeding 10 kW and having a BPP exceeding 24 mm·mrad;

a.7. Output wavelength exceeding 1,150 nm but not exceeding 1,555 nm and any of the following:

a.7.a. 'Single transverse mode' and output power exceeding 50 W; *or*

a.7.b. 'Multiple transverse mode' and output power exceeding 80 W;

a.8. Output wavelength exceeding 1,555 nm but not exceeding 1,850 nm and output power exceeding 1 W;

a.9. Output wavelength exceeding 1,850 nm but not exceeding 2,100 nm, and any of the following:

a.9.a. 'Single transverse mode' and output power exceeding 1 W; *or*

a.9. b. 'Multiple transverse mode' output and output power exceeding 120 W; *or*

a.10. Output wavelength exceeding 2,100 nm and output power exceeding 1 W;

b. Non-''tunable'' ''pulsed lasers'' having any of the following:

b.1. Output wavelength less than 150 nm and any of the following:

b.1.a. Output energy exceeding 50 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.1.b. ''Average output power'' exceeding 1 W;

b.2. Output wavelength of 150 nm or more but not exceeding 510 nm and any of the following:

b.2.a. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 30 W; *or*

b.2.b. ''Average output power'' exceeding 30 W;

Note: *6A005.b.2.b does not control Argon ''lasers'' having an ''average output power'' equal to or less than 50 W.*

b.3. Output wavelength exceeding 510 nm, but not exceeding 540 nm and any of the following:

b.3.a. 'Single transverse mode' output and any of the following:

b.3.a.1. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 50 W; *or*

b.3.a.2. ''Average output power'' exceeding 50 W; *or*

b.3.b. 'Multiple transverse mode' output and any of the following:

b.3.b.1. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 150 W; or

b.3.b.2. ''Average output power'' exceeding 150 W;

b.4. Output wavelength exceeding 540 nm but not exceeding 800 nm and any of the following:

b.4.a. ''Pulse duration'' less than 1 ps and any of the following:

b.4.a.1. Output energy exceeding 0.005 J per pulse and ''peak power'' exceeding 5 GW; *or*

b.4.a.2. ''Average output power'' exceeding 20 W; *or*

b.4.b. ''Pulse duration'' equal to or exceeding 1 ps and any of the following:

b.4.b.1. Output energy exceeding 1.5 J per pulse and ''peak power'' exceeding 30 W; *or*

b.4.b.2. ''Average output power'' exceeding 30 W;

b.5. Output wavelength exceeding 800 nm but not exceeding 975 nm and any of the following:

b.5.a. ''Pulse duration'' less than 1ps and any of the following:

b.5.a.1. Output energy exceeding 0.005 J per pulse and ''peak power'' exceeding 5 GW; *or*

b.5.a.2. 'Single transverse mode' output and ''average output power'' exceeding 20 W;

b.5.b. ''Pulse duration'' equal to or exceeding 1 ps and not exceeding 1 μs and any of the following:

b.5.b.1. Output energy exceeding 0.5 J per pulse and ''peak power'' exceeding 50 W;

b.5.b.2. 'Single transverse mode' output and ''average output power'' exceeding 20 W; *or*

b.5.b.3. 'Multiple transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.5.c. ''Pulse duration'' exceeding 1 μs and any of the following:

b.5.c.1. Output energy exceeding 2 J per pulse and ''peak power'' exceeding 50 W;

b.5.c.2. 'Single transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.5.c.3. 'Multiple transverse mode' output and ''average output power'' exceeding 80 W.

b.6. Output wavelength exceeding 975 nm but not exceeding 1,150 nm and any of the following:

b.6.a. ''Pulse duration'' of less than 1 ps, and any of the following:

b.6.a.1. Output ''peak power'' exceeding 2 GW per pulse;

b.6.a.2. ''Average output power'' exceeding 30 W; *or*

b.6.a.3. Output energy exceeding 0.002 J per pulse;

b.6.b. ''Pulse duration'' equal to or exceeding 1 ps and less than 1 ns, and any of the following:

b.6.b.1. Output ''peak power'' exceeding 5 GW per pulse;

b.6.b.2. ''Average output power'' exceeding 50 W; *or*

b.6.b.3. Output energy exceeding 0.1 J per pulse;

b.6.c. ''Pulse duration'' equal to or exceeding 1 ns but not exceeding 1 μs and any of the following:

b.6.c.1. 'Single transverse mode' output and any of the following:

b.6.c.1.a. ''Peak power'' exceeding 100 MW;

b.6.c.1.b. ''Average output power'' exceeding 20 W limited by design to a maximum pulse repetition frequency less than or equal to 1 kHz;

b.6.c.1.c. 'Wall-plug efficiency' exceeding 12%, ''average output power'' exceeding 100 W and capable of operating at a pulse repetition frequency greater than 1 kHz;

b.6.c.1.d. ''Average output power'' exceeding 150 W and capable of operating at a pulse repetition frequency greater than 1 kHz; *or*

b.6.c.1.e. Output energy exceeding 2 J per pulse; *or*

b.6.c.2. 'Multiple transverse mode' output and any of the following:

b.6.c.2.a. ''Peak power'' exceeding 400 MW;

b.6.c.2.b. 'Wall-plug efficiency' exceeding 18% and ''average output power'' exceeding 500 W;

b.6.c.2.c. ''Average output power'' exceeding 2 kW; or

b.6.c.2.d. Output energy exceeding 4 J per pulse; *or*

b.6.d. ''Pulse duration'' exceeding 1 μs and any of the following:

b.6.d.1. 'Single transverse mode' output and any of the following:

b.6.d.1.a. ''Peak power'' exceeding 500 kW;

b.6.d.1.b. 'Wall-plug efficiency' exceeding 12% and ''average output power'' exceeding 100 W; *or*

b.6.d.1.c. ''Average output power'' exceeding 150 W; *or*

b.6.d.2. 'Multiple transverse mode' output and any of the following:

b.6.d.2.a. ''Peak power'' exceeding 1 MW;

b.6.d.2.b. 'Wall-plug efficiency' exceeding 18% and ''average output power'' exceeding 500 W; *or*

b.6.d.2.c. ''Average output power'' exceeding 2 kW;

b.7. Output wavelength exceeding 1,150 nm but not exceeding 1,555 nm and any of the following:

b.7.a. ''Pulse duration'' not exceeding 1 μs and any of the following:

b.7.a.1. Output energy exceeding 0.5 J per pulse and ''peak power'' exceeding 50 W;

b.7.a.2. 'Single transverse mode' output and ''average output power'' exceeding 20 W; *or*

b.7.a.3. 'Multiple transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.7.b. ''Pulse duration'' exceeding 1 μs and any of the following:

b.7.b.1. Output energy exceeding 2 J per pulse and ''peak power'' exceeding 50 W;

b.7.b.2. 'Single transverse mode' output and ''average output power'' exceeding 50 W; *or*

b.7.b.3. 'Multiple transverse mode' output and ''average output power'' exceeding 80 W;

b.8. Output wavelength exceeding 1,555 nm but not exceeding 1,850 nm, and any of the following:

b.8.a. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.8.b. ''Average output power'' exceeding 1 W;

b.9. Output wavelength exceeding 1,850 nm but not exceeding 2,100 nm, and any of the following:

b.9.a. 'Single transverse mode' and any of the following:

b.9.a.1. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.9.a.2. ''Average output power'' exceeding 1 W;

b.9.b. 'Multiple transverse mode' and any of the following:

b.9.b.1. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 10 kW; *or*

b.9.b.2. ''Average output power'' exceeding 120 W; *or*

b.10. Output wavelength exceeding 2,100 nm and any of the following:

b.10.a. Output energy exceeding 100 mJ per pulse and ''peak power'' exceeding 1 W; *or*

b.10.b. ''Average output power'' exceeding 1 W;

c. ''Tunable'' lasers having any of the following:

c.1. Output wavelength less than 600 nm and any of the following:

c.1.a. Output energy exceeding 50 mJ per pulse and ''peak power'' exceeding 1 W; *or*

c.1.b. Average or CW output power exceeding 1W;

Note: *6A005.c.1 does not apply to dye ''lasers'' or other liquid ''lasers,'' having a multimode output and a wavelength of 150 nm or more but not exceeding 600 nm and all of the following:*

1. Output energy less than 1.5 J per pulse or a ''peak power'' less than 20 W; and

2. Average or CW output power less than 20 W.

c.2. Output wavelength of 600 nm or more but not exceeding 1,400 nm, and any of the following:

c.2.a. Output energy exceeding 1 J per pulse and ''peak power'' exceeding 20 W; *or*

c.2.b. Average or CW output power exceeding 20 W; *or*

c.3. Output wavelength exceeding 1,400 nm and any of the following:

c.3.a. Output energy exceeding 50 mJ per pulse and ''peak power'' exceeding 1 W; *or*

c.3.b. Average or CW output power exceeding 1 W;

d. Other ''lasers'', not controlled by 6A005.a., 6A005.b, or 6A005.c as follows:

d.1. Semiconductor ''lasers'' as follows:

Note:

1. 6A005.d.1 includes semiconductor ''lasers'' having optical output connectors (e.g., fiber optic pigtails).

2. The control status of semiconductor ''lasers'' ''specially designed'' for other

equipment is determined by the control status of the other equipment.

d.1.a. Individual single transverse mode semiconductor ''lasers'' having any of the following:

d.1.a.1. Wavelength equal to or less than 1,510 nm and average or CW output power, exceeding 1.5 W; *or*

d.1.a.2. Wavelength greater than 1,510 nm and average or CW output power, exceeding 500 mW;

d.1.b. Individual 'multiple-transverse mode' semiconductor ''lasers'' having any of the following:

d.1.b.1. Wavelength of less than 1,400 nm and average or CW output power, exceeding 15 W;

d.1.b.2. Wavelength equal to or greater than 1,400 nm and less than 1,900 nm and average or CW output power, exceeding 2.5 W; *or*

d.1.b.3. Wavelength equal to or greater than 1,900 nm and average or CW output power, exceeding 1 W;

d.1.c. Individual semiconductor ''laser'' 'bars' having any of the following:

d.1.c.1. Wavelength of less than 1,400 nm and average or CW output power, exceeding 100 W;

d.1.c.2. Wavelength equal to or greater than 1,400 nm and less than 1,900 nm and average or CW output power, exceeding 25 W; *or*

d.1.c.3. Wavelength equal to or greater than 1,900 nm and average or CW output power, exceeding 10 W;

d.1.d. Semiconductor ''laser'' 'stacked arrays' (two dimensional arrays) having any of the following:

d.1.d.1. Wavelength less than 1,400 nm and having any of the following:

d.1.d.1.a. Average or CW total output power less than 3 kW and having average or CW output 'power density' greater than 500 W/cm^2;

d.1.d.1.b. Average or CW total output power equal to or exceeding 3 kW but less than or equal to 5 kW, and having average or CW output 'power density' greater than 350W/cm^2;

d.1.d.1.c. Average or CW total output power exceeding 5 kW;

d.1.d.1.d. Peak pulsed 'power density' exceeding 2,500 W/cm^2; *or*

Note: *6A005.d.1.d.1.d does not apply to epitaxially-fabricated monolithic devices.*

d.1.d.1.e. Spatially coherent average or CW total output power, greater than 150 W;

d.1.d.2. Wavelength greater than or equal to 1,400 nm but less than 1,900 nm, and having any of the following:

d.1.d.2.a. Average or CW total output power less than 250 W and average or CW output 'power density' greater than 150 W/cm2;

d.1.d.2.b. Average or CW total output power equal to or exceeding 250 W but less than or equal to 500 W, and having average or CW output 'power density' greater than 50W/cm^2;

d.1.d.2.c. Average or CW total output power exceeding 500 W;

d.1.d.2.d. Peak pulsed 'power density' exceeding 500 W/cm^2; *or*

Note: *6A005.d.1.d.2.d does not apply to epitaxially-fabricated monolithic devices.*

d.1.d.2.e. Spatially coherent average or CW total output power, exceeding 15 W;

d.1.d.3. Wavelength greater than or equal to 1,900 nm and having any of the following:

d.1.d.3.a. Average or CW output 'power density' greater than 50 W/cm^2;

d.1.d.3.b. Average or CW output power greater than 10 W; *or*

d.1.d.3.c. Spatially coherent average or CW total output power, exceeding 1.5 W; *or*

d.1.d.4. At least one ''laser'' 'bar' specified by 6A005.d.1.c;

Technical Note: *For the purposes of 6A005.d.1.d, 'power density' means the total ''laser'' output power divided by the emitter surface area of the 'stacked array'.*

d.1.e. Semiconductor ''laser'' 'stacked arrays', other than those specified by 6.A005.d.1.d., having all of the following:

d.1.e.1. ''Specially designed'' or modified to be combined with other 'stacked arrays' to form a larger 'stacked array'; *and*

d.1.e.2. Integrated connections, common for both electronics and cooling;

Note 1: *'Stacked arrays', formed by combining semiconductor ''laser'' 'stacked arrays' specified by 6A005.d.1.e, that are not designed to be further combined or modified are specified by 6A005.d.1.d.*

Note 2: *'Stacked arrays', formed by combining semiconductor ''laser'' 'stacked arrays' specified by 6A005.d.1.e, that are designed to be further combined or modified are specified by 6A005.d.1.e.*

Note 3: *6A005.d.1.e does not apply to modular assemblies of single 'bars' designed to be fabricated into end to end stacked linear arrays.*

Technical Notes:

1. Semiconductor ''lasers'' are commonly called ''laser'' diodes.

2. A 'bar' (also called a semiconductor ''laser'' 'bar', a ''laser'' diode 'bar' or diode 'bar') consists of multiple semiconductor ''lasers'' in a one dimensional array.

3. A 'stacked array' consists of multiple 'bars' forming a two dimensional array of semiconductor ''lasers''.

d.2. Carbon monoxide (CO) ''lasers'' having any of the following:

d.2.a. Output energy exceeding 2 J per pulse and ''peak power'' exceeding 5 kW; *or*

d.2.b. Average or CW output power, exceeding 5 kW;

d.3. Carbon dioxide (CO_2) ''lasers'' having any of the following:

d.3.a. CW output power exceeding 15 kW;

d.3.b. Pulsed output with ''pulse duration'' exceeding 10 μs and any of the following:

d.3.b.1. ''Average output power'' exceeding 10 kW; *or*

d.3.b.2. ''Peak power'' exceeding 100 kW; *or*

d.3.c. Pulsed output with a ''pulse duration'' equal to or less than 10 μs and any of the following:

d.3.c.1. Pulse energy exceeding 5 J per pulse; *or*

d.3.c.2. ''Average output power'' exceeding 2.5 kW;

d.4. Excimer ''lasers'' having any of the following:

d.4.a. Output wavelength not exceeding 150 nm and any of the following:

d.4.a.1. Output energy exceeding 50 mJ per pulse; *or*

d.4.a.2. ''Average output power'' exceeding 1 W;

d.4.b. Output wavelength exceeding 150 nm but not exceeding 190 nm and any of the following:

d.4.b.1. Output energy exceeding 1.5 J per pulse; *or*

d.4.b.2. ''Average output power'' exceeding 120 W;

d.4.c. Output wavelength exceeding 190 nm but not exceeding 360 nm and any of the following:

d.4.c.1. Output energy exceeding 10 J per pulse; *or*

d.4.c.2. ''Average output power'' exceeding 500 W; *or*

d.4.d. Output wavelength exceeding 360 nm and any of the following:

d.4.d.1. Output energy exceeding 1.5 J per pulse; *or*

d.4.d.2. ''Average output power'' exceeding 30 W;

Note: *For excimer ''lasers'' ''specially designed'' for lithography equipment, see 3B001.*

d.5. ''Chemical lasers'' as follows:

d.5.a. Hydrogen Fluoride (HF) ''lasers';

d.5.b. Deuterium Fluoride (DF) ''lasers'';

d.5.c. 'Transfer lasers' as follows:

d.5.c.1. Oxygen Iodine (O_2-I) ''lasers'';

d.5.c.2. Deuterium Fluoride-Carbon dioxide (DF-CO_2) ''lasers'';

Technical Note: *'Transfer lasers' are ''lasers'' in which the lasing species are excited through the transfer of energy by collision of a non-lasing atom or molecule with a lasing atom or molecule species.*

d.6. 'Non-repetitive pulsed' Neodymium (Nd) glass ''lasers'' having any of the following:

d.6.a. A ''pulse duration'' not exceeding 1 μs and output energy exceeding 50 J per pulse; *or*

d.6.b. A ''pulse duration'' exceeding 1 μs and output energy exceeding 100 J per pulse;

e. ''Components'' as follows:

e.1. Mirrors cooled either by 'active cooling' or by heat pipe cooling;

Technical Note: *'Active cooling' is a cooling technique for optical ''components'' using flowing fluids within the subsurface (nominally less than 1 mm below the optical surface) of the optical component to remove heat from the optic.*

e.2. Optical mirrors or transmissive or partially transmissive optical or electro-optical-''components,'' other than fused tapered fiber combiners and Multi-Layer Dielectric gratings (MLDs), ''specially designed'' for use with controlled ''lasers'';

Note to 6A005.e.2: *Fiber combiners and MLDs are specified by 6A005.e.3.*

e.3. Fiber ''laser'' ''components'' as follows:

e.3.a. Multimode to multimode fused tapered fiber combiners having all of the following:

e.3.a.1. An insertion loss better (less) than or equal to 0.3 dB maintained at a rated total average or CW output power (excluding output power transmitted through the single mode core if present) exceeding 1,000 W; *and*

e.3.a.2. Number of input fibers equal to or greater than 3;

e.3.b. Single mode to multimode fused tapered fiber combiners having all of the following:

e.3.b.1. An insertion loss better (less) than 0.5 dB maintained at a rated total average or CW output power exceeding 4,600 W;

e.3.b.2. Number of input fibers equal to or greater than 3; *and*

e.3.b.3. Having any of the following:

e.3.b.3.a. A Beam Parameter Product (BPP) measured at the output not exceeding 1.5 mm mrad for a number of input fibers less than or equal to 5; *or*

e.3.b.3.b. A BPP measured at the output not exceeding 2.5 mm mrad for a number of input fibers greater than 5;

e.3.c. MLDs having all of the following:

e.3.c.1. Designed for spectral or coherent beam combination of 5 or more fiber ''lasers;'' *and*

e.3.c.2. CW ''Laser'' Induced Damage Threshold (LIDT) greater than or equal to 10 kW/cm^2;

f. Optical equipment as follows:

N.B.: *For shared aperture optical elements, capable of operating in ''Super-High Power Laser'' (''SHPL'') applications, see the U.S. Munitions List (22 CFR part 121).*

f.1. [Reserved]

N.B.: *For items previously specified by 6A005.f.1, see 6A004.f.*

f.2. ''Laser'' diagnostic equipment ''specially designed'' for dynamic measurement of ''SHPL'' system angular beam steering errors and having an angular ''accuracy'' of 10 µrad (microradians) or less (better);

f.3. Optical equipment and ''components'', ''specially designed'' for coherent beam combination in a phased-array ''SHPL'' system and having any of the following:

f.3.a. An ''accuracy'' of 0.1 µm or less, for wavelengths greater than 1 µm; *or*

f.3.b. An ''accuracy'' of λ/10 or less (better) at the designed wavelength, for wavelengths equal to or less than 1 µm;

f.4. Projection telescopes ''specially designed'' for use with ''SHPL'' systems;

g. 'Laser acoustic detection equipment' having all of the following:

g.1. CW ''laser'' output power greater than or equal to 20 mW;

g.2. ''Laser'' frequency stability equal to or better (less) than 10 MHz;

g.3. ''Laser'' wavelengths equal to or exceeding 1,000 nm but not exceeding 2,000 nm;

g.4. Optical system resolution better (less) than 1 nm; *and*

g.5. Optical Signal to Noise ratio equal or exceeding to 10^3.

Technical Note: *'Laser acoustic detection equipment' is sometimes referred to as a ''Laser'' Microphone or Particle Flow Detection Microphone.*

■ 31. In supplement no. 1 to part 774, Category 6, ECCN 6A008 is revised to read as follows:

6A008 Radar systems, equipment and assemblies, having any of the following (see List of Items Controlled), and ''specially designed'' ''components'' therefor.

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 2
MT applies to items that are designed for airborne applications and that are usable in systems controlled for MT reasons.	MT Column 1
RS applies to 6A008.j.1.	RS Column 1
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $5000; N/A for MT and for 6A008.j.1.
GBS: Yes, for 6A008.b, .c, and l.1 only

Special Conditions for STA

STA: License Exception STA may not be used to ship any commodity in 6A008.d, 6A008.h or 6A008.k to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) See also ECCNs 6A108 and 6A998. ECCN 6A998 controls, inter alia, the Light Detection and Ranging (LIDAR) equipment excluded by the note to paragraph j of this ECCN (6A008). (2) See USML Category XII(b) for certain LIDAR, Laser Detection and Ranging (LADAR), or range-gated systems subject to the ITAR.
Related Definitions: N/A
Items:

Note: *6A008 does not control:*

—Secondary surveillance radar (SSR);
—Civil Automotive Radar;
—Displays or monitors used for air traffic control (ATC);
—Meteorological (weather) radar;
—Precision Approach Radar (PAR) equipment conforming to ICAO standards and employing electronically steerable linear (1-dimensional) arrays or mechanically positioned passive antennas.

a. Operating at frequencies from 40 GHz to 230 GHz and having any of the following:

a.1. An average output power exceeding 100 mW; *or*

a.2. Locating ''accuracy'' of 1 m or less (better) in range and 0.2 degree or less (better) in azimuth;

b. A tunable bandwidth exceeding ±6.25% of the 'center operating frequency';

Technical Note: *The 'center operating frequency' equals one half of the sum of the highest plus the lowest specified operating frequencies.*

c. Capable of operating simultaneously on more than two carrier frequencies;

d. Capable of operating in synthetic aperture (SAR), inverse synthetic aperture (ISAR) radar mode, or sidelooking airborne (SLAR) radar mode;

e. Incorporating electronically scanned array antennae;

Technical Note: *Electronically scanned array antennae are also known as electronically steerable array antennae.*

f. Capable of heightfinding non-cooperative targets;

g. ''Specially designed'' for airborne (balloon or airframe mounted) operation and having Doppler ''signal processing'' for the detection of moving targets;

h. Employing processing of radar signals and using any of the following:

h.1. ''Radar spread spectrum'' techniques; *or*

h.2. ''Radar frequency agility'' techniques;

i. Providing ground-based operation with a maximum 'instrumented range' exceeding 185 km;

Note: *6A008.i does not control:*

a. Fishing ground surveillance radar;

b. Ground radar equipment ''specially designed'' for en route air traffic control, and having all of the following:

1. A maximum 'instrumented range' of 500 km or less;

2. Configured so that radar target data can be transmitted only one way from the radar site to one or more civil ATC centers;

3. Contains no provisions for remote control of the radar scan rate from the en route ATC center; and

4. Permanently installed;

c. Weather balloon tracking radars.

Technical Note: *For the purposes of 6A008.i, 'instrumented range' is the specified unambiguous display range of a radar.*

j. Being ''laser'' radar or Light Detection and Ranging (LIDAR) equipment and having any of the following:

j.1. ''Space-qualified'';

j.2. Employing coherent heterodyne or homodyne detection techniques and having an angular resolution of less (better) than 20 µrad (microradians); *or*

j.3. Designed for carrying out airborne bathymetric littoral surveys to International Hydrographic Organization (IHO) Order 1a Standard (5th Edition February 2008) for Hydrographic Surveys or better, and using one or more ''lasers'' with a wavelength exceeding 400 nm but not exceeding 600 nm;

Note 1: *LIDAR equipment ''specially designed'' for surveying is only specified by 6A008.j.3.*

Note 2: *6A008.j does not apply to LIDAR equipment ''specially designed'' for meteorological observation.*

Note 3: *Parameters in the IHO Order 1a Standard 5th Edition February 2008 are summarized as follows:*

Horizontal Accuracy (95% Confidence Level) = 5 m + 5% of depth.

*Depth Accuracy for Reduced Depths (95% confidence level) = ±√(a^2+(b*d)^2) where:*

a = 0.5 m = constant depth error, i.e. the sum of all constant depth errors

b = 0.013 = factor of depth dependent error
*b*d = depth dependent error, i.e. the sum of all depth dependent errors*
d = depth
Feature Detection = Cubic features >2 m in depths up to 40 m; 10% of depth beyond 40 m

k. Having ''signal processing'' sub-systems using ''pulse compression'' and having any of the following:

k.1. A ''pulse compression'' ratio exceeding 150; *or*

k.2. A compressed pulse width of less than 200 ns; *or*

Note: *6A008.k.2 does not apply to two dimensional 'marine radar' or 'vessel traffic service' radar, having all of the following:*

a. ''Pulse compression'' ratio not exceeding 150;

b. Compressed pulse width of greater than 30 ns;

c. Single and rotating mechanically scanned antenna;

d. *Peak output power not exceeding 250 W; and*

e. *Not capable of ''frequency hopping''.*

l. Having data processing sub-systems and having any of the following:

l.1. 'Automatic target tracking' providing, at any antenna rotation, the predicted target position beyond the time of the next antenna beam passage; or

Note: *6A008.l.1 does not control conflict alert capability in ATC systems, or 'marine radar'.*

Technical Note: *'Automatic target tracking' is a processing technique that automatically determines and provides as output an extrapolated value of the most probable position of the target in real time.*

1.2. [Reserved]

1.3. [Reserved]

1.4. Configured to provide superposition and correlation, or fusion, of target data within six seconds from two or more 'geographically dispersed' radar sensors to improve the aggregate performance beyond that of any single sensor specified by 6A008.f, or 6A008.i.

Technical Note: *Sensors are considered 'geographically dispersed' when each location is distant from any other more than 1,500 m in any direction. Mobile sensors are always considered 'geographically dispersed'.*

N.B.: *See also the USML (22 CFR part 121).*

Note: *6A008.l does not apply to systems, equipment and assemblies designed for 'vessel traffic services'.*

Technical Notes:

1. For the purposes of 6A008, 'marine radar' is a radar that is used to navigate safely at sea, inland waterways or near-shore environments.

2. For the purposes of 6A008, 'vessel traffic service' is a vessel traffic monitoring and control service similar to air traffic control for ''aircraft.''

■ 32. In supplement no. 1 to part 774, Category 9, ECCN 9A011 is revised to read as follows:

9A011 Ramjet, scramjet or 'combined cycle engines', and ''specially designed'' ''parts'' and ''components'' therefor. (These items are ''subject to the ITAR.'' See 22 CFR parts 120 through 130.)

Technical Note: *For the purposes of 9A011, 'combined cycle engines' combine two or more of the following types of engines:*

—Gas turbine engine (turbojet, turboprop and turbofan);
—Ramjet or scramjet;
—Rocket motor or engine (liquid/gel/solid-propellant and hybrid).

■ 33. In supplement no. 1 to part 774, Category 9, ECCN 9D515 is revised to read as follows:

9D515 ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of ''spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry except 9D515.y.	NS Column 1
RS applies to entire entry except 9D515.y.	RS Column 1
RS applies to 9D515.y, except to Russia for use in, with, or for the International Space Station (ISS), including launch to the ISS.	China, Russia, or Venezuela (see *§ 742.6(a)(7))
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for 9D515.b, .d, or .e. (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 9D515.

List of Items Controlled

Related Controls: (1) ''Software'' directly related to articles enumerated in USML Category XV is subject to the control of USML paragraph XV(f). (2) See also ECCNs 3D001, 6D001, 6D002, and 6D991 for controls of specific ''software'' ''specially designed'' for certain ''space-qualified'' items. (3) For ''software'' for items listed in 9A004.d that are incorporated into ''spacecraft payloads'', see the appropriate ''software'' ECCN within those Categories.

Related Definitions: N/A

Items:

a. ''Software'' (other than ''software'' controlled in paragraphs .b, .d, or .e of this entry) ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 9A515 (except 9A515.d or .e) or 9B515.

b. ''Source code'' that:

b.1. Contains the algorithms or control principles (*e.g.,* for clock management), precise orbit determination (*e.g.,* for ephemeris or pseudo range analysis), signal construct (*e.g.,* pseudo-random noise (PRN) anti-spoofing) ''specially designed'' for items controlled by ECCN 9A515;

b.2. Is ''specially designed'' for the integration, operation, or control of items controlled by ECCN 9A515;

b.3. Contains algorithms or modules ''specially designed'' for system, subsystem, component, part, or accessory calibration, manipulation, or control of items controlled by ECCN 9A515;

b.4. Is ''specially designed'' for data assemblage, extrapolation, or manipulation of items controlled by ECCN 9A515;

b.5. Contains the algorithms or control laws ''specially designed'' for attitude, position, or flight control of items controlled in ECCN 9A515; or

b.6. Is ''specially designed ''for built-in test and diagnostics for items controlled by ECCN 9A515.

c. [Reserved]

d. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.d.

e. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.e.

f. through x. [Reserved]

y. Specific ''software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities enumerated in ECCN 9A515.y.

■ 34. In supplement no. 1 to part 774, Category 9, ECCN 9E003 is revised to read as follows:

9E003 Other ''technology'' as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, SI, AT

Control(s)	*Country Chart (See Supp. No. 1 to part 738)*
NS applies to entire entry.	NS Column 1
SI applies to 9E003.a.1 through a.8, .h, .i, and .k.	See § 742.14 of the EAR for additional information
AT applies to entire entry.	AT Column 1

Reporting Requirements

See § 743.1 of the EAR for reporting requirements for exports under License Exceptions, and Validated End-User authorizations.

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

TSR: N/A

Special Conditions for STA

STA: License Exception STA may not be used to ship or transmit any ''technology'' in 9E003.a.1, 9E003.a.2 to a.5, 9E003.a.8, or 9E003.h to any of the destinations listed in Country Group A:6 (See Supplement No.1 to part 740 of the EAR).

List of Items Controlled

Related Controls: (1) Hot section ''technology'' specifically designed, modified, or equipped for military uses or purposes, or developed principally with Department of Defense funding, is ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) ''Technology'' is subject to the EAR when actually applied to a commercial ''aircraft'' engine program. Exporters may seek to establish commercial application either on a case-by-case basis through submission of documentation demonstrating application to a commercial program in requesting an export license from the Department Commerce in respect to a specific export, or in the case of use for broad categories of ''aircraft,'' engines, ''parts'' or ''components,'' a commodity jurisdiction determination from the Department of State.

Related Definitions: N/A

Items:

a. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following gas turbine engine ''parts,'' ''components'' or systems:

a.1. Gas turbine blades, vanes or ''tip shrouds'', made from directionally solidified (DS) or single crystal (SC) alloys and having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000 °C) at a stress of 200 MPa, based on the average property values;

Technical Note: *For the purposes of 9E003.a.1, stress-rupture life testing is typically conducted on a test specimen.*

a.2. Combustors having any of the following:

a.2.a. 'Thermally decoupled liners' designed to operate at 'combustor exit temperature' exceeding 1,883K (1,610 °C);

a.2.b. Non-metallic liners;

a.2.c. Non-metallic shells; *or*

a.2.d. Liners designed to operate at 'combustor exit temperature' exceeding 1,883K (1,610 °C) and having holes that meet the parameters specified by 9E003.c;

Note: *The ''required'' ''technology'' for holes in 9E003.a.2 is limited to the derivation of the geometry and location of the holes.*

Technical Notes:

1. 'Thermally decoupled liners' are liners that feature at least a support structure designed to carry mechanical loads and a combustion facing structure designed to protect the support structure from the heat of combustion. The combustion facing structure and support structure have independent thermal displacement (mechanical displacement due to thermal load) with respect to one another, i.e., they are thermally decoupled.

2. 'Combustor exit temperature' is the bulk average gas path total (stagnation) temperature between the combustor exit plane and the leading edge of the turbine inlet guide vane (i.e., measured at engine station T40 as defined in SAE ARP 755A) when the engine is running in a ''steady state mode'' of operation at the certificated maximum continuous operating temperature.

N.B.: *See 9E003.c for ''technology'' ''required'' for manufacturing cooling holes.*

a.3. ''Parts'' or ''components,'' that are any of the following:

a.3.a. Manufactured from organic ''composite'' materials designed to operate above 588 K (315 °C);

a.3.b. Manufactured from any of the following:

a.3.b.1. Metal ''matrix'' ''composites'' reinforced by any of the following:

a.3.b.1.a. Materials controlled by 1C007;

a.3.b.1.b. ''Fibrous or filamentary materials'' specified by 1C010; *or*

a.3.b.1.c. Aluminides specified by 1C002.a; *or*

a.3.b.2. Ceramic ''matrix'' ''composites'' specified by 1C007; *or*

a.3.c. Stators, vanes, blades, tip seals (shrouds), rotating blings, rotating blisks or 'splitter ducts', that are all of the following:

a.3.c.1. Not specified in 9E003.a.3.a;

a.3.c.2. Designed for compressors or fans; *and*

a.3.c.3. Manufactured from material controlled by 1C010.e with resins controlled by 1C008;

Technical Note: *A 'splitter duct' performs the initial separation of the air-mass flow between the bypass and core sections of the engine.*

a.4. Uncooled turbine blades, vanes or ''tip shrouds'' designed to operate at a 'gas path temperature' of 1,373 K (1,100 °C) or more;

a.5. Cooled turbine blades, vanes or ''tip-shrouds'', other than those described in 9E003.a.1, designed to operate at a 'gas path temperature' of 1,693 K (1,420 °C) or more;

Technical Note: *'Gas path temperature' is the bulk average gas path total (stagnation) temperature at the leading edge plane of the turbine component when the engine is running in a ''steady state mode'' of operation at the certificated or specified maximum continuous operating temperature.*

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. [Reserved]

a.8. 'Damage tolerant' gas turbine engine rotor ''parts'' or ''components'' using powder metallurgy materials controlled by 1C002.b; *or*

Technical Note: *'Damage tolerant' ''parts'' and ''components'' are designed using methodology and substantiation to predict and limit crack growth.*

a.9. [Reserved]

N.B.: *For ''FADEC systems'', see 9E003.h.*

a.10. [Reserved]

N.B.: *For adjustable flow path geometry, see 9E003.i.*

a.11. 'Fan blades' having all of the following:

a.11.a. 20% or more of the total volume being one or more closed cavities containing vacuum or gas only; *and*

a.11.b. One or more closed cavities having a volume of 5 cm^3 or larger;

Technical Note: *For the purposes of 9E003.a.11, a 'fan blade' is the aerofoil portion of the rotating stage or stages, which provide both compressor and bypass flow in a gas turbine engine.*

b. ''Technology'' ''required'' for the ''development'' or ''production'' of any of the following:

b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system; *or*

b.2. ''Composite'' propeller blades or prop-fans, capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;

c. ''Technology'' ''required'' for manufacturing cooling holes, in gas turbine engine ''parts'' or ''components'' incorporating any of the ''technologies'' specified by 9E003.a.1, 9E003.a.2 or 9E003.a.5, and having any of the following:

c.1. Having all of the following:

c.1.a. Minimum 'cross-sectional area' less than 0.45 mm^2;

c.1.b. 'Hole shape ratio' greater than 4.52; *and*

c.1.c. 'Incidence angle' equal to or less than 25°; *or*

c.2. Having all of the following:

c.2.a. Minimum 'cross-sectional area' less than 0.12 mm^2;

c.2.b. 'Hole shape ratio' greater than 5.65; *and*

c.2.c. 'Incidence angle' more than 25°;

Note: *9E003.c does not apply to ''technology'' for manufacturing constant radius cylindrical holes that are straight through and enter and exit on the external surfaces of the component.*

Technical Notes:

1. For the purposes of 9E003.c, the 'cross-sectional area' is the area of the hole in the plane perpendicular to the hole axis.

2. For the purposes of 9E003.c, 'hole shape ratio' is the nominal length of the axis of the hole divided by the square root of its minimum 'cross-sectional area'.

3. For the purposes of 9E003.c, 'incidence angle' is the acute angle measured between the plane tangential to the airfoil surface and the hole axis at the point where the hole axis enters the airfoil surface.

4. Techniques for manufacturing holes in 9E003.c include ''laser'' beam machining, water jet machining, Electro-Chemical Machining (ECM).

d. ''Technology'' ''required'' for the ''development'' or ''production'' of helicopter power transfer systems or tilt rotor or tilt wing ''aircraft'' power transfer systems;

e. ''Technology'' for the ''development'' or ''production'' of reciprocating diesel engine ground vehicle propulsion systems having all of the following:

e.1. 'Box volume' of 1.2 m^3 or less;

e.2. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; *and*

e.3. Power density of more than 700 kW/m^3 of 'box volume';

Technical Note: *'Box volume' is the product of three perpendicular dimensions measured in the following way:*

Length: The length of the crankshaft from front flange to flywheel face;

Width: The widest of any of the following:

a. The outside dimension from valve cover to valve cover;

b. The dimensions of the outside edges of the cylinder heads; or

c. The diameter of the flywheel housing;

Height: The largest of any of the following:

a. The dimension of the crankshaft centerline to the top plane of the valve cover (or cylinder head) plus twice the stroke; or

b. The diameter of the flywheel housing.

f. ''Technology'' ''required'' for the ''production'' of ''specially designed'' ''parts'' or ''components'' for high output diesel engines, as follows:

f.1. ''Technology'' ''required'' for the ''production'' of engine systems having all of the following ''parts'' and ''components'' employing ceramics materials controlled by 1C007:

f.1.a Cylinder liners;

f.1.b. Pistons;

f.1.c. Cylinder heads; *and*

f.1.d. One or more other ''part'' or ''component'' (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);

f.2. ''Technology'' ''required'' for the ''production'' of turbocharger systems with single-stage compressors and having all of the following:

f.2.a. Operating at pressure ratios of 4:1 or higher;

f.2.b. Mass flow in the range from 30 to 130 kg per minute; *and*

f.2.c. Variable flow area capability within the compressor or turbine sections;

f.3. ''Technology'' ''required'' for the ''production'' of fuel injection systems with a ''specially designed'' multifuel (*e.g.,* diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8 °C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8 °C)) and having all of the following:

f.3.a. Injection amount in excess of 230 mm^3 per injection per cylinder; *and*

f.3.b. Electronic control features ''specially designed'' for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;

g. ''Technology'' ''required'' for the development'' or ''production'' of 'high output diesel engines' for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication and permitting operation to temperatures exceeding 723 K (450 °C), measured on the cylinder wall at the top limit of travel of the top ring of the piston;

Technical Note: *'High output diesel engines' are diesel engines with a specified brake mean effective pressure of 1.8 MPa or more at a speed of 2,300 r.p.m., provided the rated speed is 2,300 r.p.m. or more.*

h. ''Technology'' for gas turbine engine ''FADEC systems'' as follows:

h.1. ''Development'' ''technology'' for deriving the functional requirements for the ''parts'' or ''components'' necessary for the ''FADEC system'' to regulate engine thrust or shaft power (*e.g.,* feedback sensor time constants and accuracies, fuel valve slew rate);

h.2. ''Development'' or ''production'' ''technology'' for control and diagnostic ''parts'' or ''components'' unique to the ''FADEC system'' and used to regulate engine thrust or shaft power;

h.3. ''Development'' ''technology'' for the control law algorithms, including ''source code'', unique to the ''FADEC system'' and used to regulate engine thrust or shaft power;

Note: *9E003.h does not apply to technical data related to engine-''aircraft'' integration required by civil aviation authorities of one or more Wassenaar Arrangement Participating States (see Supplement No. 1 to part 743 of the EAR) to be published for general airline use (e.g., installation manuals, operating instructions, instructions for continued airworthiness) or interface functions (e.g., input/output processing, airframe thrust or shaft power demand).*

i. ''Technology'' for adjustable flow path systems designed to maintain engine stability for gas generator turbines, fan or power turbines, or propelling nozzles, as follows:

i.1. ''Development'' ''technology'' for deriving the functional requirements for the ''parts'' or ''components'' that maintain engine stability;

i.2. ''Development'' or ''production'' ''technology'' for ''parts'' or ''components'' unique to the adjustable flow path system and that maintain engine stability;

i.3. ''Development'' ''technology'' for the control law algorithms, including ''source code'', unique to the adjustable flow path system and that maintain engine stability;

Note: *9E003.i does not apply to ''technology'' for any of the following:*

a. Inlet guide vanes;

b. Variable pitch fans or prop-fans;

c. Variable compressor vanes;

d. Compressor bleed valves; or

e. Adjustable flow path geometry for reverse thrust.

j. ''Technology'' ''required'' for the ''development'' of wing-folding systems designed for fixed-wing ''aircraft'' powered by gas turbine engines.

N.B.: *For ''technology'' ''required'' for the ''development'' of wing-folding systems designed for fixed-wing ''aircraft'' specified in USML Category VIII (a), see USML Category VIII (i).*

k. ''Technology'' not otherwise controlled in 9E003.a.1 through a.8, a.10, and .h and used in the ''development'', ''production'', or overhaul of hot section ''parts'' or ''components'' of civil derivatives of military engines controlled on the USML.

■ 35. Supplement no. 6 to part 774 is amended in Category 1 by revising paragraphs (1)(i) and (1)(vi) to read as follows:

Supplement No. 6 to Part 774—Sensitive List

* * * * *

(1) Category 1

(i) 1A002.a.1—''Composite'' structures or laminates made from an organic ''matrix'' and ''fibrous or filamentary materials'' specified by 1C010.c or 1C010.d.

* * * * *

(vi) 1D002—''Software'' for the ''development'' of organic ''matrix'', metal ''matrix'', or carbon ''matrix'' laminates or composites controlled under 1A002.a.1, 1C001, 1C007.c, 1C010.c, 1C010.d, or 1C012.

* * * * *

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

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