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Contents

Federal Register

Vol. 86, No. 64

Tuesday, April 6, 2021

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

10165.....17675
10166.....17677
10167.....17679
10168.....17681
10169.....17683
10170.....17685
10171.....17689

5 CFR

2641.....17691

12 CFR

Ch. X.....17699
1003.....17692
1005.....17693
1010.....17694
1022.....17695
1026 (3 documents) 17693, 17697, 17698

14 CFR

39 (5 documents) 17700, 17703, 17706, 17708, 17710

Proposed Rules:

71.....17754

33 CFR

Proposed Rules:

165.....17755

34 CFR

Proposed Rules:

Ch. II.....17757

36 CFR

242.....17713

40 CFR

Proposed Rules:

52.....17762
81.....17762

47 CFR

0.....17726
64.....17726

49 CFR

1333.....17735

50 CFR

100.....17713
622.....17751
679.....17752

Proposed Rules:

648.....17764

Federal Register
Vol. 86, No. 64
Tuesday, April 6, 2021

Presidential Documents

Title 3—

The President

Proclamation 10165 of March 31, 2021

Month of the Military Child, 2021

By the President of the United States of America

A Proclamation

April marks the Month of the Military Child, when our Nation pays tribute to the resilience and tenacity of our military children; over 2 million active duty, National Guard, Reserve and children of veterans who did not make the choice to serve, but live each day supporting their brave parents. These young people live out the words of the poet John Milton, ''they also serve who only stand and wait.'' We see their service and thank them for it.

From a young age, children of service members sometimes endure long separations from their parents and shoulder the burdens of service. They spend holidays and milestones apart from those they love the most, or celebrate with only a short phone call or virtual chat from a faraway parent. This is something the First Lady and I have witnessed in our own lives, as our grandchildren experienced their father's deployment to Iraq.

Military children change schools up to nine times between the start of kindergarten and high school graduation. With each move, they grapple with difficult goodbyes and the challenge of making new friends. Although life in a military family can include exploring new places and exposure to other cultures and customs, it can also bring frustration and loneliness. During the Month of the Military Child, we show our appreciation for the commitment and service of military children in shouldering these challenges, and we recognize the stressors on military children brought about by the unique demands of their parents' military life.

The strength of our Armed Forces comes not just from those who wear the uniform, but from their families, who also serve on behalf of our country. As a Nation, we have many obligations, but we have only one truly sacred obligation: to properly prepare and equip our troops when we send them into harm's way, and to care for them and their families. The First Lady and I understand the gravity of this promise personally, and we have made supporting service members, veterans, their families, caregivers, and survivors a top priority for my Administration.

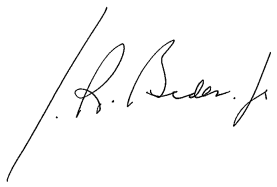
That is why the First Lady has committed to relaunching the Joining Forces initiative, mobilizing all Americans to continue the national commitment to support and engage our military families. By raising awareness about the unique aspects of military life and working toward solutions to its challenges, my Administration will continue to support military children and will help ensure that they have opportunities to grow and live out their dreams.

Observing the Month of the Military Child demonstrates our support for military children who make daily sacrifices so their parents can keep our Nation safe. Military-connected children are strong and resilient, and we must match their strength with a commitment to provide the full support of our communities and our Government. I encourage all Americans to serve them as well as they serve us.

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 April 2021 as the

Month of the Military Child. I call upon the people of the United States to honor military children with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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. 2021–07165
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Presidential Documents

Proclamation 10166 of March 31, 2021

National Cancer Control Month, 2021

By the President of the United States of America

A Proclamation

Despite the incredible advancements we have made in recent years, cancer remains the second leading cause of death in the United States. Behind this statistic are millions of Americans who know the distress of receiving a cancer diagnosis, and millions more who watch family members or friends courageously fight this disease and too often succumb to it. Cancer is brutal and cruel, and I intimately understand the incalculable human toll that this disease inflicts on patients and their loved ones—a toll that strikes communities of color at disproportionately high rates.

During National Cancer Control Month, we celebrate the progress made against this disease, and we reaffirm our national commitment to preventing cancer, improving treatments and the delivery of care, and finding a cure. This includes efforts to improve cancer prevention, promote early detection, enhance treatment, and support the needs of cancer survivors and caregivers. This issue is deeply personal for me—and as President, I am committed to ending cancer as we know it.

Progress begins with helping people take steps to lower their risk for many kinds of cancer. Tobacco use remains the top cause of cancer deaths in the United States. By helping people quit smoking and limiting exposure to secondhand smoke, we can reduce cancer risk and save lives. Resources to help quit smoking can be found at SmokeFree.gov or by calling 1–800–QUIT–NOW. Eating healthy, getting regular physical activity, limiting alcohol consumption, and reducing sun exposure when the sun is at its peak can also help reduce the risk of getting cancer.

My Administration is proud to support efforts like the Centers for Disease Control and Prevention's National Comprehensive Cancer Control and the National Breast and Cervical Cancer Early Detection Programs, which help Americans in communities throughout the country get recommended cancer screenings. You can read more about these programs at cdc.gov/cancer.

My Administration is also a proud supporter of ClinicalTrials.gov, the world's largest public clinical research database that gives patients, families, health care providers, researchers, and others easy access to information on clinical studies relating to a wide range of diseases and conditions, including cancer.

This year also marks the 50th anniversary of the National Cancer Act of 1971. This landmark legislation cemented our Nation's commitment to cancer research, establishing networks of cancer centers, clinical trials, data collection systems, and advanced research, without which many breakthroughs against cancer in recent years would not have occurred.

In addition, the Cancer Moonshot, which former President Obama and I initiated in 2016, accelerated progress in cancer prevention, treatment, and cures, including by funding six Implementation Science Centers in cancer control. These centers were created to expand the use of proven cancer prevention and early detection strategies, especially among underserved, rural, and minority populations, which often have lower rates of cancer screening and thus find cancer at more advanced stages. You can read

about these important research programs and breakthroughs by visiting cancer.gov.

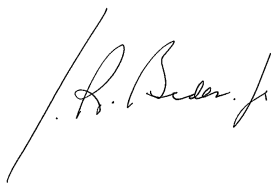
As part of the Cancer Moonshot, we also established the Oncology Center of Excellence at the Food and Drug Administration to drive faster and better integrated development of drugs, medical devices, and biological and other products to tackle this devastating disease. Find out more at fda.gov.

This year, we must be especially mindful of the significant disruptions the COVID–19 pandemic is bringing to cancer care—delaying routine screening, diagnosis, and therapy. I urge Americans not to delay recommended screenings, doctor's visits, and treatments. Because of the Affordable Care Act, most health insurance plans must cover a set of preventive services with no out-of-pocket costs, including many cancer screenings. In response to the COVID–19 pandemic, my Administration also announced a special enrollment period for the Health Insurance Marketplace, allowing uninsured individuals and families to sign up for health coverage and gain these protections through August 15th. I encourage you to visit healthcare.gov to explore your eligibility and get covered today.

Our Nation has made extraordinary advances in the fight against cancer. Still, much work remains to be done. We owe it to every person who has lost their battle with this disease, every person living with this disease, and every person who may one day contract it, to continue working tirelessly to defeat it. During National Cancer Control Month, let us renew our efforts to save lives and spare suffering by accelerating our work to end cancer as we know it.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim April 2021 as National Cancer Control Month. I encourage citizens, government agencies, private businesses, nonprofit organizations, and other interested groups to join in activities that will increase awareness of what Americans can do to prevent and control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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. 2021–07166

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Presidential Documents

Proclamation 10167 of March 31, 2021

National Child Abuse Prevention Month, 2021

By the President of the United States of America

A Proclamation

As we begin to emerge from a year of unprecedented stress and hardship, children and families need our support more than ever. The confluence of a devastating pandemic and the worst economic crisis in nearly a century have increased the risk for child abuse and neglect as Americans grapple with the compounding challenges of school and child care facility closures, social isolation, and increased financial instability. Children and families of color—who so often across our history have been underserved, marginalized, and adversely affected by persistent poverty and inequality—face even greater adversity today as they disproportionately carry the burdens of the COVID–19 crisis. During National Child Abuse Prevention Month, and throughout the entire year, it is imperative that we join together as one Nation to combat child abuse in all of its forms—through neglect, mistreatment, or physical, emotional, or sexual abuse.

Community-based child abuse prevention programs are a critical tool for preventing the mistreatment of children and advancing equity. Authorized by Title II of the Child Abuse Prevention and Treatment Act, the purpose of community-based child abuse prevention programs is to support local efforts that strengthen and support families to reduce the likelihood of child abuse. These programs offer comprehensive assistance that improves family stabilization, while also fostering meaningful engagement with diverse populations to promote effective prevention strategies.

Across our country, a vast network of frontline workers, court and legal professionals, faith leaders, volunteers, teachers, and helpful loved ones and neighbors work every day to support the wellbeing of our children. They deserve our recognition and our sincere gratitude, particularly in the midst of this difficult year. Though the pandemic has changed the ways that they interact with the families they serve, they have shown remarkable resilience, and their dedication to preventing child abuse continues to transform lives.

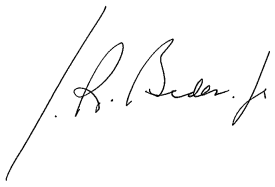
We recognize that within the larger context of addressing child abuse, there is a need to specifically address issues of sexual violence against children and adolescents. My Administration is committed to expanding efforts to improve prevention initiatives, enhance trauma-informed responses to assist children and adolescents impacted by sexual violence, and work toward healing and justice. It is an imperative not only in the United States, but also in galvanizing global action to end sexual violence against children and adolescents.

National Child Abuse Prevention Month is a time for us to not only honor those who work to support children and strengthen families, but to shine a light on the many ways we can all play a role in preventing children from being harmed. The Prevention Resource Guide, an annual publication by the Department of Health and Human Services, Administration for Children and Families Children's Bureau outlines actions that can be taken by communities, organizations, families, and individuals to address the root causes of child abuse and provide meaningful and equitable support to families. You can access the Prevention Resource Guide and other resources

at the Child Welfare Information Gateway's Child Abuse Prevention Month website. By increasing efforts to prevent child abuse, we will help children, families, and communities thrive.

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 April 2021 as National Child Abuse Prevention Month. I call upon all Americans to protect our Nation's greatest resource—its children—and to take an active role in supporting children and parents and creating safe communities filled with thriving families.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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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Presidential Documents

Proclamation 10168 of March 31, 2021

National Donate Life Month, 2021

By the President of the United States of America

A Proclamation

April is National Donate Life Month, a time for all Americans to celebrate the generosity of those who have saved lives by becoming organ, eye, tissue, marrow, and blood donors—and to encourage more Americans to follow their example. We also honor the families and friends of donors who have supported their loved one's decision to donate, as well as the caring and committed professionals who serve the transplantation community. This month-long observance also encompasses National Pediatric Transplant Week from April 18–24, a week dedicated to ending the pediatric transplant waiting list.

Despite the extraordinary challenges of the COVID–19 pandemic, 2020 saw organ transplants from deceased donors set an annual record for the 10th consecutive year—a testament to Americans' generosity and selflessness even in times of unbearable loss. Thanks to the resilience of our organ donation and transplantation professionals and the caring nature of the American people, more than 39,000 life-saving or life-enhancing organ transplants were performed in the United States last year from both living and deceased donors.

While thousands of Americans receive the gift of life each year through organ transplantation, the number of people in need of life-saving organs remains staggeringly high. There are more than 107,000 people currently on the national transplant waiting list, and another person is added every nine minutes. Sadly, the waiting list currently contains more than 1,900 children under the age of 18 who are awaiting a life-saving organ transplant. While very small children most often must receive donations from other young children due to size constraints, older children and adults can often match. In many cases, that means generous American adults can contribute to our goal of ending the pediatric transplant waiting list.

Current statistics show that Americans belonging to minority groups make up nearly 60 percent of those waiting for an organ transplant. Although a transplant can be successful regardless of the race or ethnicity of the donor and recipient, there is a greater chance of longer-term survival for the recipient if the genetic background of the donor and recipient are closely matched. Americans from every community are needed to help make a life-saving difference.

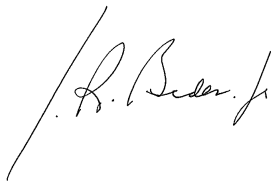
Nearly 18,000 people are diagnosed each year with illnesses for which blood stem cell transplantation—requiring marrow or cord blood—is the best treatment option. Over 65 percent of these individuals require donors from outside their own family. Although some 30 million adults are currently registered as blood stem cell donors, many individuals still have difficulty finding a suitably matched donor, meaning that we need many more registrants to fill this life-saving need.

Every day, 17 people in America die while waiting for a transplant. Yet, all of us have the power to help: one donor can save up to eight lives through organ donation, and can improve another 75 lives through eye and tissue donation. If you have not signed up as an organ donor, we need your help to fill the gap between the availability of organs and people

who need them. I encourage all Americans to give hope to those awaiting a match by visiting organdonor.gov for organ, eye, and tissue donation, and bloodstemcell.hrsa.gov for marrow donation.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 2021 as National Donate Life Month. I call upon every person to share the gift of life and hope with those in need of a life-saving or life-enhancing transplant by becoming organ, eye, tissue, marrow, and blood donors.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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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Presidential Documents

Proclamation 10169 of March 31, 2021

National Financial Capability Month, 2021

By the President of the United States of America

A Proclamation

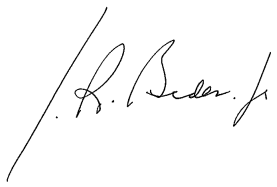
My Administration is working hard to help Americans overcome the financial impact of COVID–19 and the deep-rooted inequities in our society that have greatly limited the economic prosperity of too many Americans. Given the disproportionate impact the pandemic is having on minority and low-income communities, a concerted effort by the Federal Government is necessary for recovery and building back a better economy. Financial education that builds financial capability helps families receive assistance, build resilience, and benefit from a stronger and more equitable economy. April is recognized as National Financial Capability Month to highlight the value of high-quality financial education to improving Americans' financial capability.

The Financial Literacy and Education Commission, a 23-member body of Federal agencies, chaired by the Secretary of the Treasury, was created to coordinate and improve financial education for all Americans. Its members are helping address the financial challenges our country faces as a result of the COVID–19 pandemic. Agencies are reaching American families with critical assistance and information on home mortgage forbearance, student loan repayment relief, unemployment assistance, and economic impact payments. Federal agencies are also alerting the public about scams, bogus investments, and other ways bad actors have tried to take advantage of people during this crisis.

High-quality financial education should build on and respond to people's individual strengths, circumstances, and needs in order to help them work toward their own unique goals. Yet such high-quality financial education has not historically reached all Americans, especially our most underserved low-income and minority communities. This month, all financial educators in Federal, State, local, and Tribal governments, schools, and private sector organizations should recognize the systemic disparities in our society that have acted as barriers to financial well-being for too many families. They should redouble their efforts to better understand and effectively serve historically underserved people and communities, including people of color, low-income individuals, and persons with disabilities.

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 April 2021 as National Financial Capability Month. I call upon all Americans to observe this month by understanding barriers to financial well-being, and taking action to build their own financial capability and assist others to do so.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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. 2021–07169
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Presidential Documents

Proclamation 10170 of March 31, 2021

National Sexual Assault Prevention and Awareness Month, 2021

By the President of the United States of America

A Proclamation

Sexual assault, at its core, is a devastating abuse of power—one that affects people of every age, race, sex, gender identity, sexual orientation, national origin, socioeconomic background, and religion. It is the responsibility of each of us to stand up and speak out against it, not only to improve the laws and services available to survivors, but also to change the culture and attitudes that allow sexual assault to proliferate. Together, we must work toward a society that upholds every person's right to live free from sexual violence—where our institutions and communities commit to preventing sexual assault and sexual harassment, supporting survivors, and holding offenders accountable.

The pandemic has exacerbated the already harrowing challenges facing sexual assault survivors by making it more difficult or risky for them to seek help. Victims may be reluctant to go to the hospital for a medical forensic exam because of the risk of COVID–19 exposure; rape crisis centers and other social service providers have struggled to maintain their services while adopting necessary public health protocols; and survivors are often isolated from loved ones, friends, or co-workers who might be in the best position to provide support. As we race to stop the spread of this devastating virus, we must strengthen our efforts to support sexual assault survivors whose suffering may be compounded by this pandemic, as well as by the economic crisis that has further undermined their economic security and taken a toll on service providers.

We also must recognize that sexual assault was already a public health crisis even before the pandemic struck. According to the National Intimate Partner and Sexual Violence Survey, done by the CDC, one in five women has been a victim of a completed or attempted rape at some point in her lifetime. Research has revealed a strong link between sexual violence and chronic disease, as well as greater long-term economic burdens on survivors of sexual assault. The trauma of assault is further compounded by the high costs of medical and mental health care, navigating the criminal justice system, and lost productivity.

My Administration stands with survivors, and is committed to alleviating the public health crisis of sexual assault. As part of the American Rescue Plan (ARP), we included $450 million in supplemental funding for domestic violence and sexual assault services, including rape crisis centers. Recognizing the added barriers faced by survivors from historically marginalized communities—particularly survivors who are Black, Indigenous, Latino, Asian Americans and Pacific Islanders and other people of color—the ARP includes new funding to support community-based organizations to provide culturally-specific services for survivors of sexual assault and domestic violence.

I am also proud to have created the first-ever White House Gender Policy Council, through an Executive Order that I signed on International Women's Day. In addition to its work to bring a whole-of-government approach to gender equity in every policy we pursue, this Council will help coordinate

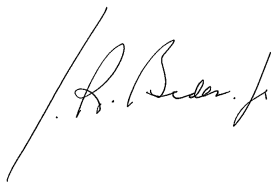
Federal agencies to develop a National Action Plan to End Gender-Based Violence. I have also established an independent review commission that will provide recommendations to help guide the development of new policies and enforcement measures in keeping with my Administration's unwavering commitment to improving the response to, and prevention of, sexual assault and sexual harassment in the military.

To strengthen our national commitment to end gender-based violence, we must also renew and further improve the Violence Against Women Act (VAWA). Writing and championing the passage of VAWA as a Senator is one of my proudest legislative accomplishments—it is a law that has transformed the way our country responds to sexual assault and intimate partner violence. With each reauthorization, I have worked with the Congress to expand VAWA's provisions on a bipartisan basis to improve protections, including for Native American women, the lesbian, gay, bisexual, and transgender community, as well as immigrant survivors and survivors from communities of color and other underserved groups. I applaud the House of Representatives for recently passing the Violence Against Women Reauthorization Act of 2021 with bipartisan support, and I urge the Senate to follow their lead to renew and strengthen this landmark law immediately. Through this legislation, we can continue to support Federal programs with a proven track record of helping survivors heal, strengthen the coordinated community response, improve the response of the criminal justice system, and provide additional pathways to safety by supporting innovative programs and prevention efforts.

We have made important strides thanks to courageous survivors and dedicated advocates. This month, we honor the strength and resilience of sexual assault survivors, and we recommit ourselves to standing with them for safety, dignity, and justice. There is still much work to do, and it will take all of us to do it. This year's Sexual Assault Awareness and Prevention Month is an opportunity for every person, employer, school, sports team, faith-based organization, and institution to come together and commit to being part of the solution. We must rededicate ourselves to creating a society where sexual violence—including sexual assault and sexual harassment—is not tolerated, where survivors are supported, and where all people have an opportunity to thrive without fear of abuse or assault.

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 April 2021 as National Sexual Assault Awareness and Prevention Month. I urge all Americans to support victims when they reach out and disclose abuse.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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. 2021–07178
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Presidential Documents

Proclamation 10171 of March 31, 2021

Second Chance Month, 2021

By the President of the United States of America

A Proclamation

America's criminal justice system must offer meaningful opportunities for redemption and rehabilitation. After incarcerated individuals serve their time, they should have the opportunity to fully reintegrate into society. It benefits not just those individuals but all of society, and it is the best strategy to reduce recidivism. During Second Chance Month, we lift up all those who, having made mistakes, are committed to rejoining society and making meaningful contributions.

My Administration is committed to a holistic approach to building safe and healthy communities. This includes preventing crime and providing opportunities for all Americans. It also requires rethinking the existing criminal justice system—whom we send to prison and for how long; how people are treated while incarcerated; how prepared they are to reenter society once they have served their time; and the racial inequities that lead to the disproportionate number of incarcerated Black and Brown people.

We must commit to second chances from the earliest stages of our criminal justice system. Supporting second chances means, for example, diverting individuals who have used illegal drugs to drug court programs and treatment instead of prison. It requires eliminating exceedingly long sentences and mandatory minimums that keep people incarcerated longer than they should be. It means providing quality job training and educational opportunities during incarceration to prepare individuals for the 21st century economy. And it means reinvesting the savings from reduced incarceration into reentry programs and social services that prevent recidivism and leave us all better off.

More than 600,000 individuals return to their communities from State and Federal prisons every year. Transitioning back into society can be overwhelming for those who are formerly incarcerated as well as their families and communities. Too many individuals face unfair legal and practical barriers to reentry. The reentry process is complicated in the best of times, and is even more so with the additional difficulties presented by the COVID–19 pandemic.

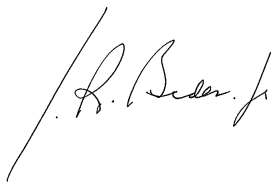
We must remove these barriers. Every person leaving incarceration should have housing, the opportunity at a decent job, and health care. A person's conviction history should not unfairly exclude them from employment, occupational licenses, access to credit, public benefits, or the right to vote. Certain criminal records should be expunged and sealed so people can overcome their past.

By focusing on prevention, reentry, and social support, rather than incarceration, we can ensure that America is a land of second chances and opportunity for all people.

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 April 2021 as Second Chance Month. I call upon all government officials, educators, volunteers,

and all the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first 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. 2021–07179
Filed 4–5–21; 8:45 am]
Billing code 3295–F1–P

Rules and Regulations

Federal Register
Vol. 86, No. 64
Tuesday, April 6, 2021

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2641

RIN 3209–AA58

Post-Employment Conflict of Interest Restrictions; Departmental Component Designations

AGENCY: Office of Government Ethics.

ACTION: Final rule.

SUMMARY: The U.S. Office of Government Ethics (OGE) is issuing this final rule to revise the component designations of one agency for purposes of the one-year post-employment conflict of interest restriction for senior employees. Specifically, based on the recommendation of the Department of Defense, OGE is designating one new component to its regulations.

DATES: This rule is effective April 6, 2021.

FOR FURTHER INFORMATION CONTACT: Kimberly L. Sikora Panza, Associate Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005–3917; Telephone: (202) 482–9300; TTY: (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Director of OGE (Director) is authorized by 18 U.S.C. 207(h) to designate distinct and separate departmental or agency components in the executive branch for purposes of 18 U.S.C. 207(c), the one-year post-employment conflict of interest restriction for senior employees. Under 18 U.S.C. 207(h)(2), component designations do not apply to persons employed at a rate of pay specified in or fixed according to subchapter II of 5 U.S.C. chapter 53 (the Executive Schedule). Component designations are listed in appendix B to 5 CFR part 2641.

The representational bar of 18 U.S.C. 207(c) usually extends to the whole of any department or agency in which a former senior employee served in any capacity during the year prior to termination from a senior employee position. However, 18 U.S.C. 207(h) provides that whenever the Director determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate component of that department or agency.

Pursuant to the procedures prescribed in 5 CFR 2641.302(e), the Department of Defense (DoD) forwarded a written request to OGE to amend its listing in appendix B to part 2641, and on December 1, 2020, OGE published a proposed rule in the **Federal Register** that proposed to designate the Defense Advanced Research Projects Agency (DARPA) as a separate component of DoD for purposes of 18 U.S.C. 207(c). The proposed rule provided a 30-day comment period, which ended on December 31, 2020. OGE did not receive any comments. The rationale for the rule, which OGE is now adopting as final, is explained in the proposed rule preamble at 85 FR 77014.

For the reasons stated in the preamble to the proposed rule, OGE is granting the request of the DoD to amend its listing to designate DARPA as a distinct and separate component of the agency for purposes of 18 U.S.C. 207(c). As indicated in 5 CFR 2641.302(f), a designation ''shall be effective on the date the rule creating the designation is published in the **Federal Register** and shall be effective as to individuals who terminated senior service either before, on or after that date.'' Initial designations in appendix B to part 2641 were effective as of January 1, 1991. The effective date of subsequent designations is indicated by means of parenthetical entries in appendix B. The new component designation made in this rule for DARPA is effective on the date the final rule is published in the **Federal Register**.

II. Matters of Regulatory Procedure

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this final rule will not have a significant economic impact on a substantial number of small entities because it affects only Federal departments and agencies and current and former Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this final rule because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this final rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Congressional Review Act

The final rule is not a major rule as defined in 5 U.S.C. chapter 8, Congressional Review of Agency Rulemaking.

Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select the regulatory approaches that maximize net benefits (including economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. In promulgating this final rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in Executive Orders 12866 and 13563. This rule has not been reviewed by the Office of Management and Budget under Executive Order 12866 because it is not a ''significant'' regulatory action for the purposes of that order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this

final rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects in 5 CFR Part 2641

Conflict of interests, Government employees.

Approved: March 31, 2021.

Emory Rounds,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2641 as set forth below:

PART 2641—POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

■ 1. The authority citation for part 2641 continues to read as follows:

Authority: 5 U.S.C. app. (Ethics in Government Act of 1978); 18 U.S.C. 207; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

■ 2. Amend appendix B to part 2641 by revising the listing for the Department of Defense to read as follows:

Appendix B to Part 2641—Agency Components for Purposes of 18 U.S.C. 207(c)

* * * * *

Parent: Department of Defense

Components:

Defense Advanced Research Projects Agency (DARPA) (effective April 6, 2021).

Department of the Air Force.

Department of the Army.

Department of the Navy.

Defense Information Systems Agency.

Defense Intelligence Agency.

Defense Logistics Agency.

Defense Threat Reduction Agency (effective February 5, 1999).

National Geospatial-Intelligence Agency (formerly National Imagery and Mapping Agency) (effective May 16, 1997).

National Reconnaissance Office (effective January 30, 2003).

National Security Agency.

* * * * *

[FR Doc. 2021–06971 Filed 4–5–21; 8:45 am]

BILLING CODE 6345–03–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Zixta Q. Martinez, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7204. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On March 26, 2020, the Bureau issued a statement entitled, ''Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion in connection to the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 through 2810, and Regulation C, 12 CFR 1003.5(a)(1)(ii).[1] Specifically, the Statement provided that until further notice, the Bureau does not intend to cite in an examination or initiate an enforcement action against any institution for failure to report its HMDA data quarterly, as required under Regulation C. Under Regulation C, 12 CFR 1003.5(a)(1)(ii), financial institutions that report for the preceding calendar year at least 60,000 covered loans and applications (excluding purchased loans) must report their HMDA data quarterly (except for the fourth quarter) in addition to annually.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and provides guidance on how entities subject to Regulation C, 12 CFR 1003.5(a)(1)(ii) should now meet this obligation.

The Statement expressed the Bureau's recognition of the impact of the COVID–19 pandemic on consumers and the operations of many financial institutions, the vital role played by mortgage lenders in ensuring that consumers have access to credit, as well as the critical importance of this access in light of the dramatic effects of the pandemic on the finances of consumers. The Bureau therefore believed it was necessary to provide financial institutions with flexibility and reduce their administrative burden to allow them to focus their attention on making sure consumers have access to credit. The Bureau has concluded that this tradeoff is no longer necessary. With regard to the quarterly filing of HMDA data, the Bureau believes that companies have had sufficient time to adapt to the pandemic and should now be able to respond to the credit needs of consumers while still complying with the quarterly data submission requirement under Regulation C without the flexibility afforded under the Statement. The Statement noted that entities should continue collecting and recording HMDA data in anticipation of making annual data submissions and that entities could continue to make quarterly HMDA submissions notwithstanding the flexibility extended under the Statement. The Bureau notes that approximately half of the financial institutions subject to the requirement are now filing their data, choosing not to take advantage of the flexibility provided by the Statement. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. The Bureau never intended the Statement to be permanent, and expressly noted that at a later date, the Bureau would provide information as to how and when it expects financial institutions subject to the requirement would resume quarterly HMDA data submissions. This Policy Statement provides that guidance.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and instructs all financial institutions required to file quarterly to do so beginning with their 2021 first quarter data, due on or before May 31, 2021, for all covered loans and applications with a final action taken date between January 1 and March 31, 2021. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity that did not make the quarterly filing for data collected in 2020.

The Bureau reminds HMDA reporters of the existing safe harbor in Regulation C, 12 CFR 1003.6(c)(2), that applies to any data financial institutions report on

[1] *https://files.consumerfinance.gov/f/documents/cfpb_hmda-statement_covid-19_2020-03.pdf.*

a quarterly basis. If a financial institution that is required to report data quarterly makes a good faith effort to report such data fully and accurately within 60 calendar days after the end of each calendar quarter, inaccuracies or omissions in quarterly data reported do not need to be corrected or completed until the financial institution submits its annual loan/application register by March 1 of the following calendar year.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06965 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1005 and 1026

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Zixta Q. Martinez, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7204. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On March 26, 2020, the Bureau issued a statement entitled, ''Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion under the Truth in Lending Act (TILA), Regulation Z, and Regulation E.[1] Specifically, the Statement provided that the Bureau, until further notice, did not intend to cite in an examination or initiate an enforcement action against any entity for failure to submit to the Bureau certain information collections relating to credit card and prepaid accounts required by TILA, Regulation Z, and Regulation E.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and provides guidance on how entities should now meet the following information collections requirements relating to credit card and prepaid accounts:

- Annual submission of certain information concerning agreements between credit card issuers and institutions of higher education (and certain affiliated organizations), as required by TILA, 15 U.S.C. 1637(r), and Regulation Z, 12 CFR 1026.57(d)(3);
- Quarterly submission of consumer credit card agreements, as required by TILA, 15 U.S.C. 1632(d)(2), and Regulation Z, 12 CFR 1026.58(c);
- Collection of certain credit card price and availability information from a sample of credit card issuers under TILA, 15 U.S.C 1646(b)(1) *et seq.;* and
- Submission of prepaid account agreements and related information required by Regulation E, 12 CFR 1005.19(b).

The Statement expressed the Bureau's recognition of the impact of the COVID–19 pandemic on consumers and the operations of many financial institutions, the critical role played by credit card and prepaid account issuers in ensuring that consumers have access to credit and other funds, as well as the critical importance of this access in light of the dramatic effects of the pandemic on the finances of consumers. The Bureau therefore believed it was necessary to provide credit card and prepaid account issuers with flexibility and reduce their administrative burden to allow them to focus their attention on making sure consumers have access to credit and other funds. The Bureau has concluded that this tradeoff is no longer necessary. Since March 2020 and over the course of the COVID–19 pandemic, financial institutions, including credit card and prepaid account issuers, have adjusted operations by, for example, shifting to a remote mode of operation and adding more robust remote operational capabilities. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau has learned that many financial services entities have resumed some level of in-person operations. In many instances, combined with more robust remote capabilities, financial entities have demonstrated improved business continuity. Based on the Bureau's market monitoring, the Bureau believes that companies, including credit card and prepaid account issuers, have had sufficient time to adapt to the pandemic and should now be able to respond to consumers' need to access credit and other funds while complying with the data submission obligations under TILA, Regulation Z, and Regulation E without the flexibility afforded under the Statement. The Statement noted that entities should maintain records sufficient to allow them to make such delayed submissions and that entities could continue making otherwise required submissions notwithstanding the flexibility extended under the Statement. The Bureau notes that most of the financial entities subject to the noted information collections

[1] *https://files.consumerfinance.gov/f/documents/cfpb_data-collection-statement_covid-19_2020-03.pdf.*

requirements appear to be meeting them, choosing not to take advantage of the flexibility provided by the Statement. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. The Bureau never intended the Statement to be permanent, and expressly noted in the Statement that at a later date, the Bureau would notify entities of when and how to submit information under these requirements and that entities should maintain records sufficient to allow them to make such delayed submissions pursuant to Bureau guidance. This Policy Statement provides that guidance.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and instructs all financial institutions required to file to do so as follows:

Annual submission of certain information concerning agreements between credit card issuers and institutions of higher education (and certain affiliated organizations), as required by TILA, 15 U.S.C. 1637(r), and Regulation Z, 12 CFR 1026.57(d)(3)

Credit card issuers required to submit information pursuant to 15 U.S.C. 1637(r) and 12 CFR 1026.57(d)(3) relating to agreements in effect in calendar year 2020 should do so by March 31, 2021. Issuers should also submit all delayed submissions for agreements in effect in calendar year 2019. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who submits requisite information relating to agreements in effect in calendar year 2019 and 2020 by April 30, 2021.

Quarterly submission of consumer credit card agreements, as required by TILA, 15 U.S.C. 1632(d)(2), and Regulation Z, 12 CFR 1026.58(c)

Credit card issuers required to submit information pursuant to 15 U.S.C. 1632(d)(2) and 12 CFR 1026.58(c) should do so by April 30, 2021 beginning with the submission relating to the first calendar quarter of 2021 and also include all delayed submissions from all cycles during which the Statement was in effect (*i.e.,* all four quarters of 2020). The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who makes any requisite delayed submissions by April 30, 2021.

Collection of certain credit card price and availability information from a sample of credit card issuers under TILA, 15 U.S.C 1646(b)(1) et seq.

Credit card issuers required to submit information pursuant to 15 U.S.C 1646(b)(1) *et seq.* should do so as required by TILA beginning with the survey cycle that begins on July 31, 2021. The Bureau intends to provide affirmative confirmation to issuers included in the Bureau's sample for the survey cycles beginning July 31, 2020 and January 31, 2021 by April 30, 2021. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who makes any requisite delayed submissions relating to the July 31, 2020 and January 31, 2021 cycles by August 13, 2021.

Submission of prepaid account agreements and related information required by Regulation E, 12 CFR 1005.19(b)

Prepaid account issuers required by Regulation E to submit agreements and related information should ensure, by April 30, 2021, that any such information on file with the Bureau is current and complete through March 31, 2021. Thereafter, issuers must resume making submissions on a rolling basis in accordance with the regulation. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity who makes any requisite submissions by April 30, 2021.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06966 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1010

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Zixta Q. Martinez, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7204. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On April 27, 2020, the Bureau issued a statement entitled, ''Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act and Regulation J'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion in connection to certain annual reports of activity and financial statements by land developers who are subject to the Interstate Land Sales Full Disclosure Act (ILSA), 15 U.S.C. 1701, *et seq.,* as implemented by Regulation J (10 CFR part 1010).[1]

[1] *https://files.consumerfinance.gov/f/documents/cfpb_ilsa_relief-statement-covid-19_2020-04.pdf.*

Specifically, the Statement provided that the Bureau, until further notice, did not intend to take supervisory or enforcement action against land developers subject to ILSA and Regulation J for:

- Delays in filing annual reports of activity with the Bureau, which Regulation J requires within 30 days of the annual anniversary of the effective date of a developer's initial statement of record (12 CFR 1010.310), provided that developers are making good faith efforts to file these reports within a reasonable time; and
- Delays in filing financial statements with the Bureau, which Regulation J requires within120 days of the close of a developer's fiscal year (12 CFR 1010.212(d)), provided that developers are making good faith efforts to file these reports within a reasonable time.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and provides guidance as to how land developers should now meet this obligation.

The Statement expressed the Bureau's recognition of the serious impact of the COVID–19 pandemic on consumers and on the operations of many entities, including land developers subject to ILSA. The Bureau issued the Statement to provide land developers with flexibility and reduce administrative burden. With regard to the filing of the noted annual reports of activity and financial statements, the Bureau believes that land developers have had sufficient time to adapt to the pandemic and should now be able to file annual reports of activity and financial statements without the flexibility afforded under the Statement. The Bureau notes that immediately following the stay-at-home orders issued by States and other jurisdictions, there was a drop-off in ILSA filings with the Bureau. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau notes that land developers have resumed filing of annual reports of activity and financial statements without significant delays. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. Additionally, the Bureau never intended the Statement to be permanent.

The Bureau rescinds the Statement and reminds land developers subject to ILSA and Regulation J to resume:

- Filing annual reports of activity with the Bureau, which Regulation J requires within 30 days of the annual anniversary of the effective date of a developer's initial statement of record (12 CFR 1010.310), and
- Filing financial statements with the Bureau, which Regulation J requires within 120 days of the close of a developer's fiscal year (12 CFR 1010.212(d)).

The Bureau does not intend to take supervisory or enforcement action against land developers subject to ILSA for delays in filing annual reports of activity or financial statements with the Bureau, who make any such delayed submission by April 30, 2021 for the time period that the Statement was in effect beginning April 27, 2020 through April 30, 2021.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06968 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Mehul Madia, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7104. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On April 1, 2020, the Bureau issued a statement entitled, ''Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion in enforcing the Fair Credit Reporting Act (FCRA) and Regulation V.[1] Specifically, the statement highlights furnishers' responsibilities under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and informs consumer reporting agencies and furnishers of the Bureau's flexible supervisory and enforcement approach during the COVID–19 pandemic regarding compliance with FCRA and Regulation V. As part of that flexible approach, the Bureau also stated that it intended to consider the circumstances that entities face as a result of the pandemic and their good faith efforts to comply with

[1] *https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf.*

their statutory and regulatory obligations.

The Bureau hereby rescinds, as of April 1, 2021, the portion of the Statement that sets forth the Bureau's flexible supervisory and enforcement approach during the pandemic regarding compliance with FCRA and Regulation V, and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and FCRA and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau. This rescission does not apply to the portion of the Statement that is under the heading ''Furnishing Consumer Information Impacted by COVID–19.''

The Statement expressed the Bureau's recognition of the impact of the COVID–19 pandemic on the operations of many consumer reporting agencies and furnishers, including staffing and related resource challenges confronting consumer reporting agencies and furnishers and their counsel. The Bureau has concluded that since release of this statement such circumstances have changed. Since March 2020 and over the course of the COVID–19 pandemic, consumer reporting agencies and furnishers, have adjusted operations by, for example, shifting to a remote mode of operation. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau has learned that many entities have resumed some level of in-person operations and, in many instances combined with more robust remote capabilities, have demonstrated improved business continuity.

With regard to the temporary flexibility announced in the Statement, the Bureau believes that consumer reporting agencies and furnishers have had sufficient time to adapt to the pandemic and should be able to regularly meet their obligations under FCRA and Regulation V. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants.

The Bureau continues to encourage institutions to meet the financial services needs of their customers affected by the COVID–19 pandemic.[2] The COVID–19 pandemic is a national emergency that threatens the financial well-being of millions of Americans, with particularly dire effects to communities of color. As the pandemic continues to unfold, compliance with consumer law has never been more important. We thus expect that institutions will adhere to consumer protection requirements, in their interactions with consumers. The Bureau's statutory purposes include ''ensuring . . . that markets for consumer financial products and services are fair, transparent, and competitive.'' 12 U.S.C. 5511(a). The information from consumer reports is used to make many kinds of important decisions, including whether a consumer can borrow money or how much he or she will pay in interest to finance a home, a car, or a higher education. Consumer reporting information is also commonly used for other purposes too, beyond credit, such as to determine if consumers can rent housing or obtain insurance and, if so, at what price. In short, accurate consumer reporting has a profound influence on the lives of consumers and whether they will be able to take advantage of certain opportunities. Declining to cite conduct that is a violation of FCRA, and Regulation V based on the articulated principles in the Statement may skew the consumer financial marketplace, to the detriment of market participants who do not act in violation. To fulfill its statutory mandate, the Bureau has made it a priority to direct its supervisory, enforcement, and other tools to the prevention of harm to consumers from unlawful acts and practices.

It is therefore more important than ever that institutions adhere to consumer protection and consumer reporting requirements and that the Bureau use its supervisory and enforcement tools to the full extent and with the full flexibility afforded by Congress. Accordingly, the Bureau hereby rescinds as of April 1, 2021 the portion of the Statement that sets forth the Bureau's flexible supervisory and enforcement approach during the pandemic regarding compliance with FCRA and Regulation V.[3] Instead, in its discretion, the Bureau intends to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06967 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

[2] *See, e.g., Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus* (Revised) (April 7, 2020); *Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID–19 Emergency and the CARES Act* (April 3, 2020); *Joint Press Release: Agencies provide additional information to encourage financial institutions to work with borrowers affected by COVID–19* (March 22, 2020); *Joint Press Release: Agencies encourage financial institutions to meet financial needs of customers and members affected by coronavirus* (March 9, 2020).

[3] This rescission does not apply to the portion of the Statement that is under the heading ''Furnishing Consumer Information Impacted by COVID–19.'' The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity that did not comply with the FCRA and Regulation V requirements as described in the Statement between April 1, 2020, and March 31, 2021.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID–19 Pandemic

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID–19 Pandemic.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Mehul Madia, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7104. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On May 13, 2020, the Bureau issued a statement entitled, ''Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID–19 Pandemic'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion under Regulation Z.[1] Specifically, the Statement provides that when evaluating a creditor's compliance with the maximum timeframe for billing error resolution set forth in Regulation Z, the Bureau intends to consider the creditor's circumstances and does not intend to cite a violation in an examination or bring an enforcement action against a creditor that takes longer than required by the regulation to resolve a billing error notice, so long as the creditor has made good faith efforts to obtain the necessary information and make a determination as quickly as possible, and complies with all other requirements pending resolution of the error.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.

The Statement expressed the Bureau's recognition that some entities, including small businesses, that provide information to facilitate creditors' investigation of consumers' billing error notices might face significant operational disruptions as a result of the COVID–19 pandemic, including staff reductions, and thus might have difficulty in handling unusual volumes of error notices. The Bureau believed that these disruptions would render it more difficult for creditors to accurately and timely resolve consumers' billing error notices based on information from merchants with potential damage to merchants and consumers from incorrect decisions. The Statement also expressed the Bureau's recognition of the impact of the COVID–19 pandemic on the operations of many financial institutions, including staffing and related resource challenges confronting financial institutions and their counsel. The Bureau has concluded that since release of this Statement such circumstances have changed. Since March 2020 and over the course of the COVID–19 pandemic, many creditors have adjusted operations by, for example, shifting to a remote mode of operation. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau has learned that many financial services entities have resumed some level of in-person operations and, in many instances combined with more robust remote capabilities, have demonstrated improved business continuity and have taken extra steps to ensure disputes are resolved within the required timeframe.

Based on the Bureau's market monitoring, it is believed creditors now have sufficient capacity to manage consumer dispute requests and are able to regularly meet their obligations under Bureau's Regulation Z (12 CFR part 1026) without the flexibility afforded under the statement. Data from Bureau's complaint system also shows that complaints relating to credit card billing disputes have been declining since June of 2020. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. Indeed, the Bureau never intended the Statement to be permanent, and expressly stated it was tied to the unique circumstances faced at the start of the pandemic. The Bureau continues to encourage institutions to meet the financial services needs of their customers affected by the COVID–19 pandemic.

As the pandemic continues to unfold, consumers are struggling and compliance with consumer law has never been more important. The Bureau's statutory purposes include ''ensuring . . . that markets for consumer financial products and services are fair, transparent, and competitive.'' 12 U.S.C. 5511(a). The Bureau believes that there is potential consumer harm when billing error disputes are not timely resolved, as required by law, and at this point in the pandemic, that credit card issuers can timely resolve disputes without compromising accuracy. To fulfill its statutory mandate, the Bureau has made it a priority to direct its supervisory, enforcement, and other tools to the prevention of harm to consumers from unlawful acts, policies, and practices. It is therefore more important than ever that institutions adhere to consumer protection requirements, and that the Bureau use its supervisory and enforcement tools to the full extent and with the full flexibility afforded by Congress.

The Bureau hereby rescinds, as of April 1, 2021, its Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID–19 Pandemic. Instead, in its discretion, the Bureau intends to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity that did not comply with the billing error timeframe as described in the Statement between May 13, 2020, and March 31, 2021.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information

[1] *https://files.consumerfinance.gov/f/documents/cfpb_statement_regulation-z-error-resolution-covid-19_2020-05.pdf.*

regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06969 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID–19 Pandemic

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID–19 Pandemic.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Zixta Q. Martinez, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7204. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On June 3, 2020, the Bureau issued a statement entitled, ''Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID–19 Pandemic'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion under the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) as implemented by Regulation Z (12 CFR part 1026).[1] The Statement provided that under specified circumstances, the Bureau did not intend to cite a violation in an examination or bring an enforcement action against an issuer that during a phone call does not obtain a consumer's E-Sign consent to electronic provision of certain written disclosures required by Regulation Z (12 CFR part 1026), so long as the issuer during the phone call obtains both the consumer's oral consent to electronic delivery of the written disclosures and oral affirmation of his or her ability to access and review the electronic written disclosures. Specifically, the Statement pertained to oral telephone interactions where a card issuer may seek to open a new credit card account for a consumer, provide certain temporary reductions in APRs or fees applicable to an existing account, or offer a low-rate balance transfer.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.

The Statement expressed the Bureau's understanding that as a result of the COVID–19 pandemic some credit card issuers were receiving far more phone calls from consumers than usual while also operating with reduced staffing or servicing capability. In particular, consumers in many instances were reaching out to issuers seeking relief that issuers sometimes could not provide without first providing certain written disclosures required by Regulation Z. The Bureau has concluded that since release of the Statement such circumstances have changed. Since March 2020 and over the course of the pandemic, financial institutions, including credit card issuers, have adjusted operations by, for example, shifting to a remote mode of operation and enhancing remote operational capabilities. As States and jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, the Bureau has learned that many financial services entities have resumed some level of in-person operations and, in many instances combined with enhanced remote capabilities, have demonstrated improved business continuity. Specifically, once States and jurisdictions rescinded and modified stay-at-home orders, service representatives of credit card issuers regained access to certain operational systems that could not be accessed remotely and could resume responsiveness to consumer calls about (1) opening a new credit card account for a consumer, (2) providing certain temporary reductions in APRs or fees applicable to an existing account, or (3) offering a low-rate balance transfer. Based on the Bureau's market monitoring, the Bureau also notes that consumers have accelerated their transition from traditional call communications to digital means as the pandemic has progressed. Therefore, due to the noted adjustments by credit card issuers and communication migration from traditional calls to digital means by consumers, the temporary and targeted flexibility provided by the Statement is no longer warranted.

Based on the Bureau's market monitoring, the Bureau believes that credit card issuers have adapted and improved operations over the course of the pandemic and are now able to respond to the credit needs of consumers while still providing consumers with the full protections afforded by TILA and Regulation Z without the flexibility afforded under the Statement. The Bureau notes that many credit card issuers are now choosing not to take advantage of the flexibility provided by the Statement due to improved operational capabilities that enable the provision of written disclosures. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. The Bureau never intended the Statement to be permanent, and the Statement expressly indicated that the relief was intended to be temporary and targeted.

The Bureau continues to encourage institutions to meet the financial services needs of their customers affected by the COVID–19 pandemic.

As the pandemic continues to unfold, consumers are struggling and compliance with consumer law has never been more important. The Bureau's statutory purposes include ''ensuring . . . that markets for consumer financial products and services are fair, transparent, and

[1] *https://files.consumerfinance.gov/f/documents/cfpb_e-sign-credit-card_statement_2020-06.pdf.*

competitive.'' 12 U.S.C. 5511(a). Declining to cite conduct that is a violation of TILA and Regulation Z based on the articulated principles in the Statement may skew the consumer financial marketplace, to the detriment of market participants who provide written disclosures in accordance with TILA and Regulation Z while demonstrating an ability to quickly assist consumers and respond to the credit needs of consumers during the pandemic. To fulfill its statutory mandate, the Bureau has made it a priority to direct its supervisory, enforcement, and other tools to ensure that consumers are afforded full protection under the law. It is therefore more important than ever that financial institutions will adhere to the consumer protection requirements of TILA and Regulation Z in their interactions with consumers and that the Bureau use its supervisory and enforcement tools to the full extent and with the full flexibility afforded by Congress.

The Bureau hereby rescinds, as of April 1, 2021, its Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID–19 Pandemic and instructs all financial institutions, including credit card issuers, to comply with their obligations under TILA (15 U.S.C. 1601 *et seq.*) as implemented by Regulation Z (12 CFR part 1026). Instead, in its discretion, the Bureau intends to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity that did not comply with the TILA and Regulation Z written disclosure requirements as described in the Statement between June 3, 2020, and April 30, 2021.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06970 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Chapter X

Rescission of Statement of Policy on Bureau Supervisory and Enforcement Response to COVID–19 Pandemic

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Bureau Supervisory and Enforcement Response to COVID–19 Pandemic.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Mehul Madia, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7104. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On March 26, 2020, the Bureau issued a statement entitled, ''Statement on Bureau Supervisory and Enforcement Response to COVID–19 Pandemic'' (Statement), regarding the Bureau's exercise of its supervisory and enforcement discretion during the pandemic.[1] Specifically, the Statement provided that the Bureau would take into account staffing and related resource challenges confronting financial institutions and their counsel as they relate to supervisory activities and enforcement actions. The Statement also noted that when conducting examinations and other supervisory activities and in determining whether to take enforcement action, the Bureau will consider the circumstances that entities may face as a result of the COVID–19 pandemic and will be sensitive to good-faith efforts demonstrably designed to assist consumers.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.

The Statement expressed the Bureau's recognition of the impact of the COVID–19 pandemic on the operations of many financial institutions, including staffing and related resource challenges confronting financial institutions and their counsel. The Bureau has concluded that since release of this statement such circumstances have changed. Since March 2020 and over the course of the COVID–19 pandemic, financial institutions and other entities that provide financial services and products to consumers have adjusted operations by, for example, shifting to a remote mode of operation. As States and other jurisdictions have rescinded and modified stay-at-home orders over the course of the pandemic, many financial services entities have resumed some level of in-person operations and, in many instances combined with more robust remote capabilities, have demonstrated improved business continuity.

With regard to the temporary flexibility announced in the Statement, the Bureau believes that companies should have had sufficient time to adapt to the pandemic and should now be able adequately to comply with the law and respond to enforcement actions or supervisory activities without the flexibility afforded under the statement. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants.

[1] *https://files.consumerfinance.gov/f/documents/cfpb_supervisory-enforcement-statement_covid-19_2020-03.pdf.*

Indeed, the Bureau never intended the Statement to be permanent, and accordingly expressly framed the Statement as temporary relief.

The Bureau continues to encourage institutions to meet the financial services needs of their customers affected by the COVID–19 pandemic.

The COVID–19 pandemic is a national emergency that threatens the financial well-being of millions of Americans, with particularly dire effects to communities of color. As the pandemic continues to unfold, consumers are facing economic hardship and compliance with Federal consumer financial law therefore is of paramount importance. The Bureau's statutory purposes include ''ensuring . . . that markets for consumer financial products and services are fair, transparent, and competitive.'' 12 U.S.C. 5511(a). Declining to cite conduct consistent with the full scope of the Bureau's supervision authority based on the articulated principles in the Statement may skew the consumer financial marketplace, to the detriment of market participants who comply with the law. To fulfill its statutory mandate, the Bureau has made it a priority to direct its supervisory, enforcement, and other tools to the prevention of harm to consumers from unlawful acts, policies, and practices. It is therefore of critical importance that institutions adhere to consumer protection requirements, including fair lending laws, in their interactions with consumers, and that the Bureau use its supervisory and enforcement tools to the full extent and with the full flexibility afforded by Congress.

The Bureau is therefore rescinding the Statement, applicable as of April 1, 2021.[2] Instead, in its discretion, the Bureau intends to exercise its supervisory and enforcement authority using a risk-based approach and considering responsible business conduct, consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.[3]

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–06964 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AM–P

[2] Last year, the Bureau, along with the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency (the ''Agencies'') issued statements entitled ''Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus'' (April 7, 2020) (the ''April 7 Interagency Statement''), and ''Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus'' (April 14, 2020) (the ''April 14 Interagency Statement''). Both statements provided that the Agencies did not intend to take public enforcement actions against entities in certain instances. The April 7 Interagency Statement focused on loan modifications and stated that the agencies ''do not expect to take a consumer compliance public enforcement action against an institution, provided that the circumstances were related to the National Emergency and that the institution made good faith efforts to support borrowers and comply with the consumer protection requirements, as well as responded to any needed corrective action.'' Under the April 14 Interagency Statement, the agencies, as defined in that Statement, addressed flexibilities under certain appraisal standards. To the extent that the Bureau indicated flexibility, it now intends to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress. As detailed in the Statement it is issuing today, the Bureau believes the circumstances described in the April 7 Interagency Statement and the April 14 Interagency Statement have changed and that companies should have had sufficient time to adapt. As such, the Bureau does not intend to continue to provide any flexibilities afforded entities in these specific sections of both the April 7 Interagency Statement and the April 14 Interagency Statement.

[3] *See, e.g.,* CFPB Bulletin 2020–1, Responsible Business Conduct: Self-Assessing, Self-Reporting, Remediating, and Cooperating, *available at https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2020-01_responsible-business-conduct.pdf.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0854; Project Identifier MCAI–2020–01067–T; Amendment 39–21432; AD 2021–04–11]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–01–10, which applied to certain Airbus SAS Model A350–941 airplanes. AD 2020–01–10 required installing flight control and guidance system (FCGS) software (SW) X11 Standard (STD). This AD retains the requirements of AD 2020–01–10, requires modifying the electrical power supply of the air generation system (AGS) ram air outlet door actuators, and expands the applicability by adding airplanes, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by the development of a modification that forces the AGS ram air outlet doors to be flush in cases of total engine flameout or loss of the main electrical supply. Because of this additional modification, certain airplanes that were excluded from the applicability of AD 2020–01–10 are included in the applicability of this AD. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 11, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 11, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet

www.easa.europa.eu. You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0854.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0854; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *Kathleen.Arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0167, dated July 27, 2020 (EASA AD 2020–0167) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus A350–941 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–01–10, Amendment 39–19816 (85 FR 6747, February 6, 2020) (AD 2020–01–10). AD 2020–01–10 applied to certain Airbus SAS Model A350–941 airplanes. The NPRM published in the **Federal Register** on October 1, 2020 (85 FR 61889). The NPRM was prompted by the development of a modification that forces the AGS ram air outlet doors to be flush in cases of total engine flameout or loss of the main electrical supply. Because of this additional modification, certain airplanes that were excluded from the applicability of AD 2020–01–10 are included in the applicability of this AD. The NPRM proposed to retain the requirements of AD 2020–01–10, require modifying the electrical power supply of the AGS ram air outlet door actuators, and expand the applicability by adding airplanes, as specified in EASA AD 2020–0167.

The FAA is issuing this AD to address ram air turbine (RAT) performance that may be below the expected (certificated) level when the landing gear is extended, which could lead to partial or total loss of RAT electrical power generation when the RAT is deployed in an emergency situation, possibly resulting in reduced control of the airplane. See the MCAI for additional background information.

Comments

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

Support for the NPRM

The Air line Pilots Association, International (ALPA) supported the NPRM.

Request To Revise the Compliance Time for a Certain Action

Delta Air Lines (DAL) requested that the compliance time specified in paragraph (h)(2) of the proposed AD be revised. The commenter requested that the compliance time be changed from March 12, 2020 (the effective date of AD 2020–01–10) to the effective date of the final rule. The commenter also requested that the FAA add an exception to paragraph (h) of the proposed AD allowing the software change specified in paragraph (1) of EASA AD 2020–0167 to be done within 3 years after the effective date of the final rule. The commenter explained that the compliance time in the proposed AD would have started before the date of manufacture of each airplane that would be affected by the proposed AD, therefore operators would have a compressed timeline for accomplishing the required actions. The commenter noted that in corresponding EASA AD 2020–0167, which superseded EASA AD 2019–0203, the compliance time was ''within 10 months after September 3, 2019 (the effective date of EASA AD 2019–0203).''

The FAA does not agree with the commenter's request. The actions specified in paragraph (1) of EASA AD 2020–0167 are retained actions that were also required in AD 2020–01–10. The compliance time for those retained actions remains the same in this AD (within 10 months after March 12, 2020 (the effective date of AD 2020–01–10)). Operators have been aware of the software change required by this AD since March 12, 2020; therefore an extension of the compliance time for that action in this final rule is not warranted. New airplanes started receiving the modified software in production prior to July 25, 2019 (the date EASA issued PAD 19–142, which became EASA AD 2019–0203), so there is no justification for extending the compliance time to 3 years after the effective date of this AD. The FAA has not changed this AD in regard to this issue.

Request for Clarification That Reporting Is Not Required

DAL requested that paragraph (h) of the proposed AD be revised to include an exception to clarify that reporting is not required. The commenter noted that in Airbus Service Bulletin A350–21–P038, Revision 1, dated August 31, 2020, submitting certain information to the manufacturer is included in step 3.C.(4). of paragraph 3.C., and that paragraph 3.C. is specified as required for compliance (RC). The commenter noted that the information to be submitted is business related and is not directly related to the unsafe condition addressed in the NPRM.

The FAA agrees with the commenter's request for the reasons provided. The FAA has added paragraph (i) of this AD to specify that reporting is not required. The subsequent paragraphs have been redesignated accordingly.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0167 describes procedures for installing FCGS SW X11 STD and for modifying the electrical power supply of the AGS ram air outlet door actuators. This material is

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

Costs of Compliance

The FAA estimates that this AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–01–10	8 work-hours × $85 per hour = $680	$4,650	$5,330	$69,290
New actions	8 work-hours × $85 per hour = $680	1,950	2,630	34,190

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–01–10, Amendment 39–19816 (85 FR 6747, February 6, 2020), and

■ b. Adding the following new AD:

2021–04–11 Airbus SAS: Amendment 39–21432; Docket No. FAA–2020–0854; Project Identifier MCAI–2020–01067–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 11, 2021.

(b) Affected ADs

This AD replaces AD 2020–01–10, Amendment 39–19816 (85 FR 6747, February 6, 2020) (AD 2020–01–10).

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0167, dated July 27, 2020 (EASA AD 2020–0167).

(d) Subject

Air Transport Association (ATA) of America Code 21, Air Conditioning; and 42, Flight Control and Guidance System.

(e) Reason

This AD was prompted by a determination through testing that ram air turbine (RAT) performance may be below the expected (certificated) level when the landing gear is extended, and by the development of a modification that forces the air generation system (AGS) ram air outlet doors to be flush in cases of total engine flameout or loss of the main electrical supply. The FAA is issuing this AD to address RAT performance that may be below the expected (certificated) level when the landing gear is extended, which could lead to partial or total loss of RAT electrical power generation when the RAT is deployed in an emergency situation, possibly resulting in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0167.

(h) Exceptions to EASA AD 2020–0167

(1) Where EASA AD 2020–0167 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2020–0167 refers to September 3, 2019 (the effective date of EASA AD 2019–0203), this AD requires using March 12, 2020 (the effective date of AD 2020–01–10).

(3) The ''Remarks'' section of EASA AD 2020–0167 does not apply to this AD.

(i) No Reporting Required

Although the service information referenced in EASA AD 2020–0167 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

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

(k) Related Information

For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *Kathleen.Arrigotti@faa.gov.*

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on May 11, 2021.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0167, dated July 27, 2020.

(ii) [Reserved]

(4) For EASA AD 2020–0167, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(5) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0854.

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

Issued on February 8, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–07003 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0752; Product Identifier 2009–SW–44–AD; Amendment 39–21490; AD 2021–07–13]

RIN 2120–AA64

Airworthiness Directives; Pacific Scientific Company Seat Restraint System Rotary Buckle Assemblies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pacific Scientific Company rotary buckle assemblies (buckles). This AD requires inspecting each buckle including its buckle handle vane, and depending on the results, removing the buckle from service and installing an airworthy buckle. This AD also prohibits installing the affected buckles. This AD was prompted by several reports of cracked buckle handles. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective May 11, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of May 11, 2021.

ADDRESSES: For service information identified in this final rule, contact Meggitt Services, 1785 Voyager Ave., Simi Valley, CA 93063, telephone 877–666–0712 or at *CustomerResponse@meggitt.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0752.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0752; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to Pacific Scientific Company buckle part numbers (P/Ns) 1111430 and 1111475, all dash numbers. The SNPRM published in the **Federal Register** on September 24, 2020 (85 FR 60100). The FAA preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on September 5, 2013 (78 FR 54594). The NPRM proposed to require inspecting each buckle for a crack and the thickness of the buckle handle vane. Depending on the inspection results, the NPRM proposed to require replacing the buckle. The NPRM also proposed to prohibit installing an affected buckle on any helicopter or airplane. The SNPRM proposed to the same requirements except with longer compliance times to accomplish the inspections. The SNPRM also corrected the name of Pacific Scientific Aviation Services to Pacific Scientific Company, updated the estimated costs of compliance, edited the Applicability paragraph by adding a note to clarify that an affected buckle could be included as a component of a different part-numbered restraint system assembly and reference Appendix 1 of Pacific Scientific Service Bulletin SB 25–1111432, dated May 22, 2007 (SB 25–1111432), which lists the P/Ns of potentially affected restraint systems, updated the names of certain potentially-affected Type Certificate holders, and updated the contact information name and contact

information from Pacific Scientific Aviation Services to Meggitt Services.

The NPRM was prompted by EASA AD 2007–0256, dated September 19, 2007, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for certain Pacific Scientific Company Seat Restraint System Plastic Rotary Buckle Handles. According to EASA, Pacific Scientific Company reported several instances of cracked handles on certain buckles with a date of manufacture from November 2004 through May 2007. Testing on buckles with a cracked handle indicated that in some circumstances, a load placed on the restraint system prevents a strap from releasing as intended when the buckle is rotated. EASA states in its AD that this failure to release is possible when a passenger weighs more than 50 kg (approximately 110 lbs.) and an aircraft is upside down.

Comments

After the SNPRM was published, the FAA received comments from two commenters.

Request for Credit

NetJets QC requested that this AD allow credit for compliance with Cessna Citation Service Letter (SL) 560–25–09, Cessna Citation SL560XL–25–10, or Cessna Citation SL750–25–15, each dated December 10, 2007. NetJets QC also requested that provisions be written in the AD for logbook/Illustrated Parts Catalog (IPC) research sign-off, since these buckles may not be installed on newly-manufactured aircraft.

The FAA disagrees with both requests. This AD is an appliance AD that applies to Pacific Scientific Company buckles P/Ns 1111430 and 1111475, all dash numbers, without regard to date of manufacture, whereas each SL distinguishes the affected parts by date of manufacture. If an affected buckle is not installed on an aircraft, then this AD does not apply, and credit and provisions are not necessary to relieve this AD's requirements for the concerned aircraft. However, this AD does not prohibit using maintenance records to determine if an affected buckle is installed. Using an IPC is not an acceptable method to determine an aircraft's configuration.

Addition of MU–2B Aircraft

Mitsubishi Heavy Industries America, Inc. (MHIA) suggested that the FAA add ''Mitsubishi MU–2B series aircraft'' to the list of aircraft models that could be affected by this AD. MHIA stated that Mitsubishi Heavy Industries, Ltd., holds Supplemental Type Certificate No. SA1751SW, which allows installation of certain affected buckles on Mitsubishi MU–2B series aircraft.

The FAA partially agrees. The FAA agrees that affected buckles could be installed on Mitsubishi Heavy Industries, Ltd., Model MU–2B series airplanes; however, the applicability only identifies possible installations on airplanes and helicopters by ''make'' and not ''models.'' Accordingly, the FAA has added Mitsubishi Heavy Industries, Ltd., to the list of airplanes that affected buckles could be installed on in the applicability of this final rule.

Extension of Compliance Time

MHIA requested extending the compliance time to at least 12 months, as replacement parts could be in short supply. MHIA states that it has attempted to contact the product support representative at Meggitt Services located in Simi Valley, CA in order to obtain additional technical information; however, no formal response had been received from Meggitt Services when MHIA submitted this comment on November 9, 2020. MHIA expressed concern that with limited support from Meggitt Services, owners and operators of affected airplanes will have difficulty meeting the compliance requirements because of a potential lack of sufficient replacement parts.

The FAA acknowledges MHIA's concern about contacting Meggitt Services and has re-confirmed that its contact information is accurate. The FAA disagrees with changing the compliance time to inspect an affected buckle handle for a crack from 6 months to 12 months based on a potential lack of sufficient replacement parts. The FAA has not received any information to indicate that there is an insufficient number of replacement parts that would necessitate extending the compliance time from that stated in the proposed AD.

FAA's Determination

These products have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all of the information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other products and that air safety and the public interest require adopting the AD requirements as proposed with the changes described previously. These changes are consistent with the intent of the proposal in the SNPRM and will neither increase the economic burden on any operator nor increase the scope of this AD.

Differences Between This AD and the EASA AD

The EASA AD applies to certain buckles used on certain restraint systems that are known to be installed on, but not limited to, certain Eurocopter (now Airbus Helicopters) model helicopters. The applicability of the EASA AD is limited to rotorcraft only and is not intended for airplanes. Since the affected buckles may be installed in other aircraft resulting in the same unsafe condition, this AD applies to the same certain buckles, which may be installed on but not limited to certain airplanes and helicopters. This AD does not require returning the unairworthy buckle assembly to the manufacturer, and this AD does not apply to spare parts that are not installed on an aircraft. Also, this AD applies to buckle P/Ns 1111430 and 1111475, all dash numbers, and is not dependent on the restraint P/Ns. The EASA AD requires inspecting the buckles within 30 days, whereas this AD requires inspecting the buckle handle for a crack within 6 months and the buckle handle vane thickness within 12 months instead. The EASA AD requires a repetitive inspection of each buckle for cracks before any flight for up to 6 months following the effective date of the EASA AD until the buckle is replaced. This AD does not require an inspection for cracks before any flight for the 6 months until the affected buckles are replaced. The EASA AD identifies suspect parts by date of manufacture, and this AD does not. Finally, the EASA AD allows for marking a seat as ''un-operative'' and this AD does not.

Related Service Information Under 1 CFR Part 51

The FAA reviewed SB 25–1111432, which specifies inspecting each buckle P/Ns 1111430–XX and 1111475–XX with a date of manufacture between November 2004 and May 2007, to identify whether the handle is one susceptible to cracking by checking the P/N on the reverse side of the buckle assembly or by measuring the thickness of the handle vane. If the buckle is identified as a ''suspect'' buckle, this service information provides procedures for removing the buckle and replacing it with an acceptable buckle. Information in this service information also advises that buckles with a cracked handle should be removed from service immediately.

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

Costs of Compliance

The FAA estimates that this AD will affect 1,435 restraint systems installed on aircraft of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Inspecting a buckle costs a minimal amount and takes a nominal amount of time. Replacing a buckle takes about 0.5 work-hour and parts cost about $636 for an estimated cost of $679 per buckle and up to $974,365 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–07–13 Pacific Scientific Company: Amendment 39–21490; Docket No. FAA–2013–0752; Product Identifier 2009–SW–44–AD.

(a) Applicability

This airworthiness directive (AD) applies to Pacific Scientific Company rotary buckle assembly (buckle), part numbers (P/Ns) 1111430 and 1111475, all dash numbers. These buckles may be installed on but not limited to Bombardier Inc., Learjet Inc., Mitsubishi Heavy Industries, Ltd., Textron Aviation, Inc. (Type Certificate (TC) previously held by Cessna Aircraft Company), and Viking Air Limited (TC previously held by de Havilland, Inc.) model airplanes and Airbus Helicopters (TC previously held by Eurocopter France) model helicopters, certificated in any category.

Note 1 to paragraph (a): The rotary buckle may be included as a component of a different part-numbered restraint system assembly. Pacific Scientific Service Bulletin SB 25–1111432, dated May 22, 2007 (SB 25–1111432), Appendix 1, includes a list of these restraint system P/Ns.

(b) Unsafe Condition

This AD defines the unsafe condition as a cracked rotary buckle handle, which could prevent a strap from releasing as intended when the buckle is rotated.

(c) Effective Date

This AD becomes effective May 11, 2021.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 6 months, inspect the buckle handle for a crack. If the buckle handle is cracked, before further flight, remove the buckle as depicted in Figure 5 and by following the Procedures, paragraph 9, of SB 25–1111432, and replace it with an airworthy buckle, except you are not required to return the removed buckle to Pacific Scientific.

(2) Within 12 months, measure the thickness of the buckle handle vane as depicted in Figure 3 of SB 25–1111432. If the handle vane thickness is 0.125 inch or greater, before further flight, remove the buckle from service and replace it with an airworthy buckle.

(3) As of the effective date of this AD, do not install a buckle or a restraint system with a buckle, P/N 1111430 or 1111475, all dash numbers, with a handle vane thickness of 0.125 inch or greater on any airplane or helicopter.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Kristi Bradley, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-AVS-AIR-730-AMOC@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2007–0256, dated September 19, 2007. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2013–0752.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2500, Cabin Equipment/Furnishings.

(i) Material Incorporated by Reference

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

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

(i) Pacific Scientific Service Bulletin SB 25–1111432, dated May 22, 2007.

(ii) [Reserved]

(3) For service information identified in this AD, contact Meggitt Services, 1785 Voyager Ave., Simi Valley, CA 93063, telephone 877–666–0712 or at *CustomerResponse@meggitt.com.*

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

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://*

www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued on March 25, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06979 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1173; Project Identifier MCAI–2020–00299–R; Amendment 39–21489; AD 2021–07–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. This AD was prompted by a reassessment of the flight control system. This AD requires modification of the cyclic stick, as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 11, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of May 11, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1173.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1173; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0063, dated March 22, 2018 (EASA AD 2018–0063) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD) formerly Eurocopter Deutschland GmbH (ECD), Eurocopter España S.A, Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+ and EC635 T3 helicopters, all variants, all serial numbers (S/Ns) up to 1263 inclusive and S/N 1265, if equipped with autopilot, and S/N 2001 up to 2024 inclusive, except S/N 2006, 2008, 2013, 2017, 2019, 2020 and 2022.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. The NPRM published in the **Federal Register** on January 19, 2021 (86 FR 5040). The NPRM was prompted by a reassessment of the flight control system, which revealed that uncommanded disengagement of the main rotor trim actuators during flight with the autopilot engaged and hands-off controls could result in high roll and pitch rates, which would require pilot intervention within a reaction time below that required by current airworthiness standards. The NPRM proposed to require installing a cyclic stick weight compensation modification to correct this unsafe condition, which if not corrected may lead to subsequent loss of control of the helicopter, as specified in an EASA AD.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2018–0063 describes procedures for modifying the helicopter by retrofitting the cyclic stick weight compensation.

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

Differences Between This AD and the MCAI

The EASA AD applies to certain serial-numbered EC635-series helicopters with an autopilot installed, whereas this AD does not apply to the Model EC635-series helicopters because these models are not FAA type-certificated. The EASA AD requires a calendar compliance time, whereas this AD requires using hours time-in-service.

Costs of Compliance

The FAA estimates that this AD affects 331 helicopters of U.S. registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Modifying the cyclic stick weight compensator takes about 8 work-hours and parts cost about $1,300 for an estimated cost of about $1,980 per

modification and $655,380 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–07–12 Airbus Helicopters Deutschland GmbH: Amendment 39–21489; Docket No. FAA–2020–1173 Project Identifier MCAI–2020–00299–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 11, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, with autopilot installed, having serial numbers (S/Ns) up to 1263 inclusive, 1265, and 2001 up to 2024 inclusive, but excluding S/N 2006, 2008, 2013, 2017, 2019, 2020, and 2022.

Note 1 to Paragraph (c): Helicopters with an EC135P3H or EC135T3H designation are Model EC135P3 or EC135T3 helicopters, respectively.

(d) Subject

Joint Aircraft System Component (JASC) Code: 6700, Rotorcraft Flight Control.

(e) Reason

This AD was prompted by a reassessment of the flight control system, which revealed that uncommanded disengagement of the main rotor trim actuators during flight with the autopilot engaged and hands-off controls could result in high roll and pitch rates requiring pilot intervention within a reaction time below that required by current airworthiness standards. The FAA is issuing this AD to require installing a cyclic stick weight compensation modification to correct this unsafe condition, which if not corrected, could result in subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0063, dated March 22, 2018 (EASA AD 2018–0063).

(h) Exceptions to EASA AD 2018–0063

(1) Where EASA AD 2018–0063 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2018–0063 requires modifying the helicopter within 7 months, this AD requires modifying the helicopter within 200 hours time-in-service.

(3) Although the service information referenced in EASA AD 2018–0063 specifies to discard certain parts, this AD requires removing those parts from service instead.

(4) The ''Remarks'' section of EASA AD 2018–0063 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2018–0063 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs):

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

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

(k) Related Information

For more information about this AD, contact Kristi Bradley, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *kristin.bradley@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0063, dated March 22, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0063, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1173.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email

fedreg.legal@nara.gov, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on March 24, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06980 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1034; Project Identifier MCAI–2020–00951–T; Amendment 39–21483; AD 2021–07–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This AD was prompted by a determination that certain airplanes have outdated magnetic variation (MagVar) tables inside navigation systems. This AD requires revising the existing airplane flight manual (AFM) to update the Flight Management System (FMS) and Inertial Reference System (IRS) limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 11, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 11, 2021.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone: 1–866–538–1247 or direct-dial telephone: 1–514–855–2999; email: *ac.yul@aero.bombardier.com;* internet: *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1034.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1034; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7367; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–24, dated July 10, 2020 (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1034.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. The NPRM published in the **Federal Register** on November 27, 2020 (85 FR 75966). The NPRM was prompted by a determination that certain airplanes have outdated MagVar tables inside navigation systems. The NPRM proposed to require revising the existing AFM to update the FMS and IRS limitations. The FAA is issuing this AD to address outdated MagVar tables inside navigation systems, which can affect the performance of the navigation systems and result in the presentation of misleading magnetic heading references on the Primary Flight Displays (PFDs) and Multi-Function Displays (MFDs), positioning the airplane outside of the terrain and obstacle protection provided by instrument flight procedures and flight route designs (*e.g.,* outdated MagVar tables can lead to significantly inaccurate heading, course, and bearing calculations). See the MCAI for additional background information.

Comments

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

Request To Update Calibration of the Navigational Aids

Bombardier asked that the FAA update calibration of the required navigational aids at key ground stations, which would then fully address this potential unsafe condition. Bombardier stated that adherence to the proposed AD only addresses the outdated magnetic variation tables of affected airplane navigation systems; however, it does not guarantee a complete mitigation of the unsafe condition due to the larger issue of outdated calibration of the required navigational aids.

We acknowledge the commenter's concern. However, ADs are legally enforceable rules that only address unsafe conditions on products, such as airplanes, and cannot apply to navigational aids at ground stations. This concern may be addressed by contacting the Navigation Program Manager at the FAA Air Traffic Organization, internet: *https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/contact/.* We have not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information, which provides procedures for updating, among other systems, the FMS and IRS of the applicable AFM. These documents are distinct since they apply to different airplane configurations.

• Section 02–09, Navigation Systems Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger CL–604 AFM, PSP 604–1, Revision 116, dated December 18, 2019.

• Section 02–09, Navigation Systems Limitations, of Chapter 2—LIMITATIONS, Bombardier Challenger CL–605 AFM, PSP 605–1, Revision 54, dated December 18, 2019.

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

Costs of Compliance

The FAA estimates that this AD affects 39 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$3,315

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–07–06 Bombardier, Inc.: Amendment 39–21483; Docket No. FAA–2020–1034; Project Identifier MCAI–2020–00951–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 11, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants), serial numbers 5301 through 5665 inclusive, and 5701 through 5988 inclusive, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by a determination that certain airplanes have outdated magnetic variation (MagVar) tables inside navigation systems. The FAA is issuing this AD to address outdated MagVar tables inside navigation systems, which can affect the performance of the navigation systems and result in the presentation of misleading magnetic heading references on the Primary Flight Displays (PFDs) and Multi-Function Displays (MFDs), positioning the airplane outside of the terrain and obstacle protection provided by instrument flight procedures and flight route designs (*e.g.,* outdated MagVar tables can lead to significantly inaccurate heading, course, and bearing calculations).

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

Within 60 days after the effective date of this AD: Revise the existing AFM to incorporate the information specified in Section 02–09, Navigation Systems Limitations, of Chapter 2—LIMITATIONS, of the applicable Bombardier Challenger AFM specified in figure 1 to paragraph (g) of this AD.

Figure 1 to paragraph (g) – *AFM Revisions*

Bombardier Airplane Model/Serial Number	AFM Title	AFM Revision
CL-600-2B16 (Variant 604) 5301 through 5665 inclusive	Bombardier Challenger CL-604 AFM, PSP 604-1	Revision 116, dated December 18, 2019
CL-600-2B16 (Variant 604) 5701 through 5988 inclusive	Bombardier Challenger CL-605 AFM, PSP 605-1	Revision 54, dated December 18, 2019

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–24, dated July 10, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1034.

(2) For more information about this AD, contact Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7367; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov*.

(j) Material Incorporated by Reference

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

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

(i) Section 02–09, Navigation Systems Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger CL–604 Airplane Flight Manual, PSP 604–1, Revision 116, dated December 18, 2019.

(ii) Section 02–09, Navigation Systems Limitations, of Chapter 2—LIMITATIONS, Bombardier Challenger CL–605 Airplane Flight Manual, PSP 605–1, Revision 54, dated December 18, 2019.

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone: 1–866–538–1247 or direct-dial telephone: 1–514–855–2999; email: *ac.yul@aero.bombardier.com*; internet: *https://www.bombardier.com*.

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

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

Issued on March 19, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06961 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1138; Project Identifier MCAI–2020–01258–E; Amendment 39–21488; AD 2021–07–11]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–A2, 1000–AE2, 1000–C2, 1000–CE2, 1000–D2, 1000–E2, 1000–G2, 1000–H2, 1000–J2, 1000–K2, and 1000–L2 model turbofan engines. This AD was prompted by the manufacturer's analysis which determined that cracks may initiate in the front seal fins and cause cracks in the low-pressure turbine (LPT) disk. This AD requires repetitive inspection of the seal fins and, depending on the results of the inspection, replacement of the LPT disk before further flight. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 11, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 11, 2021.

ADDRESSES: For service information identified in this final rule, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; website: *https://www.rolls-royce.com/contact-us.aspx.* You may view this service information

at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1138.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1138; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: *kevin.m.clark@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent 1000–A2, 1000–AE2, 1000–C2, 1000–CE2, 1000–D2, 1000–E2, 1000–G2, 1000–H2, 1000–J2, 1000–K2, and 1000–L2 model turbofan engines. The NPRM published in the **Federal Register** on December 21, 2020 (85 FR 82970). The NPRM was prompted by the manufacturer's analysis which determined that cracks may initiate in the front seal fins and cause cracks in the LPT disk. In the NPRM, the FAA proposed to require repetitive inspection of the seal fins and, depending on the results of the inspection, replacement of the LPT disk before further flight. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2020–0195, dated September 8, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Analysis of certain LP turbine discs in service has determined that, due to rubbing contact with interstage static seals, cracks may initiate in the front seal fins which could lead to cracks in the disc of the affected parts, as defined in this [EASA] AD.
>
> This condition, if not detected and corrected, could lead to crack propagation, possibly resulting in LP turbine disc failure and high-energy debris release, with consequent damage to, and reduced control of, the aeroplane.
>
> To address this potential unsafe condition, Rolls-Royce published the NMSB to provide inspection instructions.
>
> For the reason described above, this [EASA] AD requires repetitive ultra-high sensitivity fluorescent penetrant inspections of the seal fins of the affected parts and, depending on findings, replacement of affected parts.

You may obtain further information by examining the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1138.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. The commenters were Boeing Commercial Airplanes (Boeing) and Rolls-Royce. Rolls-Royce requested a change that resulted in an update to this AD. Boeing supported the AD as written. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Change Engine Shop Visit to Refurbishment Shop Visit

Rolls-Royce requested that the FAA revise the references in paragraphs (g)(1) and (h)(1) of this AD from ''engine shop visit'' to ''refurbishment shop visit.'' Rolls-Royce reasoned that the FAA introduced a different inspection frequency to that defined in Rolls-Royce Non-Modification Service Bulletin (NMSB) Trent 1000 72–AK416, Initial Issue, dated June 29, 2020, and EASA AD 2020–0195, dated September 8, 2020. Rolls-Royce further reasoned that a pair of mating flanges may be separated at most engine shop visits even when undertaking specific hospital shop or check and repair workscopes. Rolls-Royce indicated that it was not their intent, nor is it required by the safety case presented to and agreed by EASA, to strip and inspect the LPT seals at hospital or check and repair shop visits.

The FAA agrees. The FAA changed references in paragraphs (g)(1) and (h)(1) of this AD from ''engine shop visit'' to ''refurbishment shop visit.'' The FAA also updated paragraph (h)(1) of this AD to define a ''refurbishment shop visit.''

Support for the AD

Boeing expressed support for the AD as written.

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Rolls-Royce NMSB Trent 1000 72–AK416, Initial Issue, dated June 29, 2020 (the NMSB). The NMSB provides instructions for inspecting the LPT stage 3 disk and the LPT stage 4 disk. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 26 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the LPT stage 3 disk and LPT stage 4 disk.	80 work-hours × $85 per hour = $6,800	$0	$6,800	$176,800

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPT stage 3 disk	0 work-hours × $85 per hour = $0	$336,158	$336,158
Replace LPT stage 4 disk	0 work-hours × $85 per hour = $0	406,345	406,345

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–07–11 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Amendment 39–21488; Docket No. FAA–2020–1138; Project Identifier MCAI–2020–01258–E.

(a) Effective Date

This airworthiness directive (AD) is effective May 11, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc) (RRD) Trent 1000–A2, 1000–AE2, 1000–C2, 1000–CE2, 1000–D2, 1000–E2, 1000–G2, 1000–H2, 1000–J2, 1000–K2, and 1000–L2 model turbofan engines with a low-pressure turbine (LPT) stage 3 disk with part number (P/N) KH36323, or an LPT stage 4 disk with P/N KH33943, installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the manufacturer's analysis of certain LPT disks in service. The analysis determined that, due to rubbing contact with interstage static seals, cracks may initiate in the front seal fins, which could lead to cracks in the LPT stage 3 and stage 4 disks. The FAA is issuing this AD to prevent failure of the LPT disk. The unsafe condition, if not addressed, could result in uncontained LPT disk release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) During each refurbishment shop visit after the effective date of this AD, inspect the seal fins of the LPT stage 3 disk and the LPT stage 4 disk in accordance with the Accomplishment Instructions, paragraphs 3.B and 3.C, of Rolls-Royce Alert Non-Modification Service Bulletin Trent 1000 72–AK416, Initial Issue, dated June 29, 2020.

(i) For an engine that is in a refurbishment shop visit on the effective date of this AD, if the LPT stage 3 disk and LPT stage 4 disk are exposed, perform the inspection before the engine is returned to service.

(ii) [Reserved]

(2) If, during any inspection required by paragraph (g)(1) of this AD, any crack is detected, before further flight, remove the affected LPT disk and replace it with a part eligible for installation.

(h) Definitions

(1) For the purpose of this AD, a ''refurbishment shop visit'' is the induction of an engine into the shop for maintenance that involves removing the blades from a disk in the intermediate-pressure turbine and replacing a disk in either the high-pressure compressor or high-pressure turbine.

(2) For the purpose of this AD, a ''part eligible for installation'' is an LPT stage 3 disk or LPT stage 4 disk with zero flight cycles since new, or an LPT stage 3 disk or LPT stage 4 disk that has passed the inspection required by paragraph (g)(1) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781)

238–7088; fax: (781) 238–7199; email: *kevin.m.clark@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0195, dated September 8, 2020, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1138.

(k) Material Incorporated by Reference

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

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

(i) Rolls-Royce Alert Non-Modification Service Bulletin Trent 1000 72–AK416, Initial Issue, dated June 29, 2020.

(ii) [Reserved]

(3) For Rolls-Royce service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; website: *https://www.rolls-royce.com/contact-us.aspx.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

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

Issued on March 23, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06952 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2019–0092; FXFR13350700640–212–FF07J00000; FBMS#4500151540]

RIN 1018–BE36

Subsistence Management Regulations for Public Lands in Alaska—2021–2022 and 2022–2023 Subsistence Taking of Fish Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule revises regulations for seasons, harvest limits, methods, and means related to taking of fish for subsistence uses in Alaska during the 2021–2022 and 2022–2023 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use and rural determinations during the applicable biennial cycle. This rule also revises rural determinations.

DATES: This rule is effective April 6, 2021.

ADDRESSES: The Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (*https://www.doi.gov/subsistence*). The comments received in response to the proposed rule are available on *www.regulations.gov* in Docket No. FWS–R7–SM–2019–0092.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Sue Detwiler, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov*. For questions specific to National Forest System lands, contact Gregory Risdahl, Subsistence Program Leader, U.S. Department of Agriculture (USDA), Forest Service, Alaska Region; (907) 302–7354 or *gregory.risdahl@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The Program managers have subsequently amended these regulations a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of

which is represented by a Federal Subsistence Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

The Board addresses customary and traditional use determinations during the applicable biennial cycle. Section ____.24 (customary and traditional use determinations) was originally published in the **Federal Register** on May 29, 1992 (57 FR 22940). The regulations at 36 CFR 242.4 and 50 CFR 100.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. . . .'' Since 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. Those modifications for fish and shellfish, along with some administrative corrections, were published in the **Federal Register** as follows:

MODIFICATIONS TO § ____.24

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
66 FR 10142	February 13, 2001	Fish/Shellfish.
67 FR 5890	February 7, 2002	Fish/Shellfish.
68 FR 7276	February 12, 2003	Fish/Shellfish.
69 FR 5018	February 3, 2004	Fish/Shellfish.
70 FR 13377	March 21, 2005	Fish/Shellfish.
71 FR 15569	March 29, 2006	Fish/Shellfish.
72 FR 12676	March 16, 2007	Fish/Shellfish.
72 FR 73426	December 27, 2007	Wildlife/Fish.
74 FR 14049	March 30, 2009	Fish/Shellfish.
76 FR 12564	March 8, 2011	Fish/Shellfish.
77 FR 35482	June 13, 2012	Wildlife.
79 FR 35232	June 19, 2014	Wildlife.
81 FR 52528	August 8, 2016	Wildlife.
83 FR 3079	January 23, 2018	Fish.
83 FR 50758	October 9, 2018	Wildlife.
84 FR 39744	August 12, 2019	Fish.
85 FR 74796	November 23, 2020	Wildlife.

Current Rule

The Departments published a proposed rule, Subsistence Management Regulations for Public Lands in Alaska—2021–22 and 2022–23 Subsistence Taking of Fish Regulations, on February 19, 2020 (85 FR 9430), to amend the fish section of subparts C and D of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a comment period, which closed on April 20, 2020. The Departments advertised the proposed rule by mail, email, web page, social media, radio, and newspaper, and comments were submitted via *www.regulations.gov* to Docket No. FWS–R7–SM–2019–0092. During that period, the Councils met and, in addition to other Council business, received suggestions for proposals from the public. The Board received a total of 13 proposals for changes to subpart D. In addition, 12 fisheries closure reviews were presented for comment as required by Board policy that specifies a 3-year review of all closures. Comments were also requested on a subpart C proposal addressing rural determination. After the comment period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The proposals were also available online. The public then had an additional 70 days in which to comment on the proposed regulatory changes, which ended on July 2, 2020.

The 10 Councils met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Councils' recommendations at the Board's public meeting of January 26–29, 2021. These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Of the 14 valid proposals and 12 fishery closure reviews, 16 were on the Board's non-consensus agenda and 10 were on the consensus agenda. The consensus agenda is made up of proposals for which there is agreement among the affected Councils, a majority of the Interagency Staff Committee members, and the Alaska Department of Fish and Game concerning a proposed regulatory action. Anyone may request that the Board remove a proposal from the consensus agenda and place it on the non-consensus agenda. The Board votes en masse on the consensus agenda after deliberation and action on all other proposals.

Of the proposals on the consensus agenda, the Board adopted eight and rejected two. Analysis and justification for the action taken on each proposal on the consensus agenda are available for review at the Office of Subsistence Management, 1011 East Tudor Road,

Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (*https://www.doi.gov/subsistence*). Of the proposals on the non-consensus agenda, the Board adopted one; adopted one with modification; rejected six; and deferred eight.

Summary of Non-Consensus Proposals Not Adopted by the Board

The Board rejected six non-consensus proposals and deferred eight. The rejected proposals were recommended for rejection by the majority of the affected Councils or as noted below.

Yukon-Northern Area

The Board voted to maintain a closure to the take of all fish on the Jim River drainage, with the expectation that the affected Councils will submit a special action and followup proposal to establish a season and harvest limits. The affected Councils recommended a modification to establish a season with harvest limits; however, this would have gone beyond the scope of the closure review and would not have allowed for the public review process or Tribal consultations regarding a new season and harvest limits.

The Board voted to maintain a closure to the take of Arctic Grayling on Nome Creek in the Yukon River drainage, with the expectation that the affected Councils will submit a special action and followup proposal to establish a season and harvest limits. At the Board's meeting, new data was presented that was not available to the Councils during their original discussions and recommendations to the Board. The Council Chairs supported this action.

Kuskokwim Area

The Board rejected a proposal that would have reduced the required distance between set nets. This action was to prevent overcrowding in the fishing area and was supported by both affected Councils.

Aleutian Islands, Alaska Peninsula and Chignik, and Kodiak Areas

The Board deferred seven fishery closure reviews, which are in the Kodiak/Aleutians Regional Advisory Council region, to allow for the Council to have additional time to meet with remote communities and have further discussions and allow for additional public input. These closure reviews will be addressed during the next fisheries cycle.

Prince William Sound Area

The Board deferred a proposal to establish a dip net fishery on the lower Copper River to allow conflicting users groups an opportunity to meet and attempt to reach a compromise.

The Board rejected a proposal to require harvest reports to be submitted within 3 days. This proposal was deemed as an undue burden on subsistence users and was supported by both affected Councils.

The Board rejected a proposal that would have prohibited the use of mono-filament and multifilament mesh dip nets during specified times along the upper Copper River. This proposal was deemed as an undue burden on subsistence users and was supported by both affected Councils.

The Board rejected a proposal that would have prohibited fishing with dip nets from boats or watercraft along the upper Copper River. This action would have reduced opportunity for subsistence users and was supported by one Council and opposed by another.

Summary of Non-Consensus Proposals Adopted by the Board

The Board adopted one proposal and one proposal with modification on the non-consensus agenda. The modification was suggested by the affected Council and developed during the analysis process. All of the adopted proposals were recommended for adoption by at least one of the Councils as noted below.

Prince William Sound Area

The Board adopted a proposal to prohibit the use of bathymetry and or fish locator devices while fishing on the upper Copper River. This regulation does not require the removal or uninstallation of these devices from the boat or watercraft. This action was supported by one Council and opposed by another.

Southcentral Region

The Board adopted with modification a proposal that determined the community (Census Designated Place) of Moose Pass as rural. The Board modified this determination to also include the Census Designated Places of Crown Point and Primrose. This action was supported by the affected Council.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native corporation consultations, and public comments. While all public comments received on the proposed rule were considered, some were outside the scope of this rulemaking action. Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 30 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, with an expiration date of January 31. 2024. 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.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or Tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian Tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in

person, by mail, email, or phone at any time during the rulemaking process.

On January 26, 2021, the Board provided federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Sue Detwiler of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Paul McKee, Alaska State Office, Bureau of Land Management;
- Dr. Joshua Ream, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Vince Mathews, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Gregory Risdahl, Alaska Regional Office, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART __—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. Amend § ____.23 by revising paragraph (a) to read as follows:

§ ____.23 Rural determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § 100.15 except the following: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Valdez, and Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenberg Butte.

* * * * *

Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. Amend § ____.27 by revising paragraphs (e)(3), (4), (5), (10), and (11) to read as follows:

§ ____.27 Subsistence taking of fish.

* * * * *

(e) * * *

(3) *Yukon-Northern Area.* The Yukon-Northern Area includes all waters of Alaska between the latitude of Point Romanof and the latitude of the westernmost point of the Naskonat Peninsula, including those waters draining into the Bering Sea, and all waters of Alaska north of the latitude of the westernmost tip of Point Hope and west of 141° West longitude, including those waters draining into the Arctic Ocean and the Chukchi Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Yukon-Northern Area at any time. In those locations where subsistence fishing permits are required, only one subsistence fishing permit will be issued to each household per year. You may subsistence fish for salmon with rod and reel in the Yukon River drainage 24 hours per day, 7 days per week, unless rod and reel are specifically otherwise restricted in this paragraph (e)(3).

(ii) For the Yukon River drainage, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), unless superseded by a Federal special action.

(iii) In the following locations, you may take salmon during the open weekly fishing periods of the State commercial salmon fishing season and may not take them for 24 hours before the opening of the State commercial salmon fishing season:

(A) In District 4, excluding the Koyukuk River drainage;

(B) In Subdistricts 4B and 4C from June 15 through September 30, salmon may be taken from 6 p.m. Sunday until 6 p.m. Tuesday and from 6 p.m. Wednesday until 6 p.m. Friday;

(C) In District 6, excluding the Kantishna River drainage, salmon may be taken from 6 p.m. Friday until 6 p.m. Wednesday.

(iv) During any State commercial salmon fishing season closure of greater than 5 days in duration, you may not take salmon during the following periods in the following districts:

(A) In District 4, excluding the Koyukuk River drainage, salmon may not be taken from 6 p.m. Friday until 6 p.m. Sunday;

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5D, salmon may not be taken from 6 p.m. Sunday until 6 p.m. Tuesday.

(v) Except as provided in this section, and except as may be provided by the terms of a subsistence fishing permit, you may take fish other than salmon at any time.

(vi) In Districts 1, 2, 3, and Subdistrict 4A, excluding the Koyukuk and Innoko River drainages, you may not take salmon for subsistence purposes during the 24 hours immediately before the opening of the State commercial salmon fishing season.

(vii) In Districts 1, 2, and 3:

(A) After the opening of the State commercial salmon fishing season through July 15, you may not take salmon for subsistence for 18 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period;

(B) After July 15, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period.

(viii) In Subdistrict 4A after the opening of the State commercial salmon fishing season, you may not take salmon for subsistence for 12 hours immediately before, during, and for 12 hours after each State commercial salmon fishing period; however, you may take Chinook salmon during the

State commercial fishing season, with drift gillnet gear only, from 6 p.m. Sunday until 6 p.m. Tuesday and from 6 p.m. Wednesday until 6 p.m. Friday.

(ix) You may not subsistence fish in the following drainages located north of the main Yukon River:

(A) Kanuti River upstream from a point 5 miles downstream of the State highway crossing;

(B) Bonanza Creek;

(C) Jim River including Prospect and Douglas Creeks.

(x) You may not subsistence fish in the Delta River.

(xi) In Beaver Creek downstream from the confluence of Moose Creek, a gillnet with mesh size not to exceed 3-inches stretch-measure may be used from June 15 through September 15. You may subsistence fish for all non-salmon species but may not target salmon during this time period (retention of salmon taken incidentally to non-salmon directed fisheries is allowed). From the mouth of Nome Creek downstream to the confluence of Moose Creek, only rod and reel may be used. From the mouth of Nome Creek downstream to the confluence of O'Brien Creek, the daily harvest and possession limit is 5 grayling; from the mouth of O'Brien Creek downstream to the confluence of Moose Creek, the daily harvest and possession limit is 10 grayling. The Nome Creek drainage of Beaver Creek is closed to subsistence fishing for grayling.

(xii) You may take salmon only by gillnet, beach seine, dip net, fish wheel, or rod and reel, subject to the restrictions set forth in this section.

(A) In the Yukon River drainage, you may not take salmon for subsistence fishing using gillnets with stretched mesh larger than 7.5 inches.

(B) In Subdistrict 5D you may take salmon once the mid-range of the Canadian interim management escapement goal and the total allowable catch goal are projected to be achieved.

(C) Salmon may be harvested by dip net at any time, except during times of conservation when the Federal in-season manager may announce restrictions on time, areas, and species.

(xiii) In District 4, if you are a commercial fisherman, you may not take salmon for subsistence purposes during the State commercial salmon fishing season using gillnets with stretched-mesh larger than 6 inches after a date specified by ADF&G emergency order issued between July 10 and July 31.

(xiv) In Districts 5 and 6, you may not take salmon for subsistence purposes by drift gillnets.

(xv) In District 4 salmon may be taken by drift gillnet not more than 150 feet in length unless restricted by special action or as modified by regulations in this section.

(xvi) Unless otherwise specified in this section, you may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, long line, fyke net, dip net, jigging gear, spear, lead, or rod and reel, subject to the following restrictions, which also apply to subsistence salmon fishing:

(A) During the open weekly fishing periods of the State commercial salmon fishing season, if you are a commercial fisherman, you may not operate more than one type of gear at a time, for commercial, personal use, and subsistence purposes.

(B) You may not use an aggregate length of set gillnet in excess of 150 fathoms, and each drift gillnet may not exceed 50 fathoms in length.

(C) In Districts 4, 5, and 6, you may not set subsistence fishing gear within 200 feet of other fishing gear operating for commercial, personal, or subsistence use except that, at the site approximately 1 mile upstream from Ruby on the south bank of the Yukon River between ADF&G regulatory markers containing the area known locally as the ''Slide,'' you may set subsistence fishing gear within 200 feet of other operating commercial or subsistence fishing gear, and in District 4, from Old Paradise Village upstream to a point 4 miles upstream from Anvik, there is no minimum distance requirement between fish wheels.

(D) During the State commercial salmon fishing season, within the Yukon River and the Tanana River below the confluence of the Wood River, you may use drift gillnets and fish wheels only during open subsistence salmon fishing periods.

(E) In Birch Creek, gillnet mesh size may not exceed 3-inches stretch-measure from June 15 through September 15.

(F) In Racetrack Slough on the Koyukuk River and in the sloughs of the Huslia River drainage, from when each river is free of ice through June 15, the offshore end of the set gillnet may not be closer than 20 feet from the opposite bank except that sloughs 40 feet or less in width may have $^{3}{}_{4}$ width coverage with set gillnet, unless closed by Federal special action.

(xvii) In District 4, from September 21 through May 15, you may use jigging gear from shore ice.

(xviii) You must possess a subsistence fishing permit for the following locations:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from the upstream mouth of 22 Mile Slough to the U.S.-Canada border;

(C) Only for salmon in the Tanana River drainage above the mouth of the Wood River.

(xix) Only one subsistence fishing permit will be issued to each household per year.

(xx) In Districts 1, 2, and 3, from June 1 through July 15. If ADF&G has announced that Chinook salmon can be sold in the commercial fisheries, you may not possess Chinook salmon taken for subsistence purposes unless both tips (lobes) of the tail fin have been removed before the person conceals the salmon from plain view or transfers the salmon from the fishing site.

(xxi) In the Yukon River drainage, Chinook salmon must be used primarily for human consumption and may not be targeted for dog food. Dried Chinook salmon may not be used for dog food anywhere in the Yukon River drainage. Whole fish unfit for human consumption (due to disease, deterioration, and deformities), scraps, and small fish (16 inches or less) may be fed to dogs. Also, whole Chinook salmon caught incidentally during a subsistence chum salmon fishery in the following time periods and locations may be fed to dogs:

(A) After July 10 in the Koyukuk River drainage;

(B) After August 10, in Subdistrict 5D, upstream of Circle City.

(4) *Kuskokwim Area.* The Kuskokwim Area consists of all waters of Alaska between the latitude of the westernmost point of Naskonat Peninsula and the latitude of the southernmost tip of Cape Newenham, including the waters of Alaska surrounding Nunivak and St. Matthew Islands and those waters draining into the Bering Sea.

(i) Unless otherwise restricted in this section, you may take fish in the Kuskokwim Area at any time without a subsistence fishing permit.

(ii) For the Kuskokwim area, Federal subsistence fishing schedules, openings, closings, and fishing methods are the same as those issued for the subsistence taking of fish under Alaska Statutes (AS 16.05.060), except the use of gillnets with 6-inch or less mesh size is allowed before June 1 in the Kuskokwim River drainage, unless superseded by a Federal special action.

(iii) In Districts 4 and 5, from June 1 through September 8, you may not take salmon for 16 hours before or during and for 6 hours after each State open

commercial salmon fishing period in each district.

(iv) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, you may subsistence fish for salmon with rod and reel 24 hours per day, 7 days per week, unless rod and reel are specifically restricted by this paragraph (e)(4).

(v) You may not take subsistence fish by nets in the Goodnews River east of a line between ADF&G regulatory markers placed near the mouth of the Ufigag River and an ADF&G regulatory marker placed near the mouth of the Tunulik River 16 hours before or during and for 6 hours after each State open commercial salmon fishing period.

(vi) You may not take subsistence fish by nets in the Kanektok River upstream of ADF&G regulatory markers placed near the mouth 16 hours before or during and for 6 hours after each State open commercial salmon fishing period.

(vii) You may not take subsistence fish by nets in the Arolik River upstream of ADF&G regulatory markers placed near the mouth 16 hours before or during and for 6 hours after each State open commercial salmon fishing period.

(viii) You may only take salmon by gillnet, beach seine, fish wheel, dip net, or rod and reel subject to the restrictions set out in this section, except that you may also take salmon by spear in the Kanektok, and Arolik River drainages, and in the drainage of Goodnews Bay.

(ix) You may not use an aggregate length of set gillnets or drift gillnets in excess of 50 fathoms for taking salmon.

(x) You may take fish other than salmon by set gillnet, drift gillnet, beach seine, fish wheel, pot, long line, fyke net, dip net, jigging gear, spear, lead, handline, or rod and reel.

(xi) You must attach to the bank each subsistence set gillnet operated in tributaries of the Kuskokwim River and fish it substantially perpendicular to the bank and in a substantially straight line.

(xii) Within a tributary to the Kuskokwim River in that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakoff River, you may not set or operate any part of a set gillnet within 150 feet of any part of another set gillnet.

(xiii) The maximum depth of gillnets is as follows:

(A) Gillnets with 6-inch or smaller stretched-mesh may not be more than 45 meshes in depth;

(B) Gillnets with greater than 6-inch stretched-mesh may not be more than 35 meshes in depth.

(xiv) You may not use subsistence set and drift gillnets exceeding 15 fathoms in length in Whitefish Lake in the Ophir Creek drainage. You may not operate more than one subsistence set or drift gillnet at a time in Whitefish Lake in the Ophir Creek drainage. You must check the net at least once every 24 hours.

(xv) You may take rainbow trout only in accordance with the following restrictions:

(A) You may take rainbow trout only by the use of gillnets, dip nets, fyke nets, handline, spear, rod and reel, or jigging through the ice;

(B) You may not use gillnets, dip nets, or fyke nets for targeting rainbow trout from March 15 through June 15;

(C) If you take rainbow trout incidentally in other subsistence net fisheries and through the ice, you may retain them for subsistence purposes;

(D) There are no harvest limits with handline, spear, rod and reel, or jigging.

(xvi) All tributaries not expressly closed by Federal special action, or as modified by regulations in this section, remain open to the use of gillnets more than 100 yards upstream from their confluence with the Kuskokwim River.

(5) *Bristol Bay Area.* The Bristol Bay Area includes all waters of Bristol Bay, including drainages enclosed by a line from Cape Newenham to Cape Menshikof.

(i) Unless restricted in this section, or unless under the terms of a subsistence fishing permit, you may take fish at any time in the Bristol Bay area.

(ii) You may not take fish from waters within 300 feet of a stream mouth used by salmon.

(iii) You may not subsistence fish with nets in the Tazimina River and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14.

(iv) Unless otherwise specified, you may take salmon by set gillnet only.

(A) You may also take salmon by spear in the Togiak River, excluding its tributaries.

(B) You may also use drift gillnets not greater than 10 fathoms in length to take salmon in the Togiak River in the first 2 river miles upstream from the mouth of the Togiak River to the ADF&G regulatory markers.

(C) You may also take salmon without a permit in Sixmile Lake and its tributaries within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited, and Lake Clark and its tributaries, by snagging (by handline or rod and reel), using a spear, bow and arrow, rod and reel, or capturing by bare hand.

(D) You may also take salmon by beach seines not exceeding 25 fathoms in length in Lake Clark, excluding its tributaries.

(E) You may also take fish (except rainbow trout) with a fyke net and lead in tributaries of Lake Clark and the tributaries of Sixmile Lake within and adjacent to the exterior boundaries of Lake Clark National Park and Preserve unless otherwise prohibited.

(*1*) You may use a fyke net and lead only with a permit issued by the Federal in-season manager.

(*2*) All fyke nets and leads must be attended at all times while in use.

(*3*) All materials used to construct the fyke net and lead must be made of wood and be removed from the water when the fyke net and lead is no longer in use.

(v) The maximum lengths for set gillnets used to take salmon are as follows:

(A) You may not use set gillnets exceeding 10 fathoms in length in the Egegik River;

(B) In the remaining waters of the area, you may not use set gillnets exceeding 25 fathoms in length.

(vi) You may not operate any part of a set gillnet within 300 feet of any part of another set gillnet.

(vii) You must stake and buoy each set gillnet. Instead of having the identifying information on a keg or buoy attached to the gillnet, you may plainly and legibly inscribe your first initial, last name, and subsistence permit number on a sign at or near the set gillnet.

(viii) You may not operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(ix) You may take fish other than salmon, herring, and capelin by gear listed in this part unless restricted under the terms of a subsistence fishing permit.

(x) You may take salmon only under authority of a State subsistence salmon permit (permits are issued by ADF&G) except when using a Federal permit for fyke net and lead.

(xi) Only one State subsistence fishing permit for salmon and one Federal permit for use of a fyke net and lead for all fish (except rainbow trout) may be issued to each household per year.

(xii) In the Togiak River drainage:

(A) You may not possess coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(B) You may not possess salmon taken with a drift gillnet under the authority of a subsistence fishing permit unless

both lobes of the caudal fin (tail) or the dorsal fin have been removed.

(xiii) You may take rainbow trout only by rod and reel or jigging gear. Rainbow trout daily harvest and possession limits are two per day/two in possession with no size limit from April 10 through October 31 and five per day/five in possession with no size limit from November 1 through April 9.

(xiv) If you take rainbow trout incidentally in other subsistence net fisheries, or through the ice, you may retain them for subsistence purposes.

* * * * *

(10) *Cook Inlet Area.* The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58°51.10′ N Lat.) and a line extending south from Cape Fairfield (148°50.25′ W Long.).

(i) *General area regulations.* (A) Unless restricted by regulations in this section, or unless restricted under the terms of a subsistence fishing permit, you may take fish at any time in the Cook Inlet Area.

(B) If you take rainbow or steelhead trout incidentally in subsistence net fisheries, you may retain them for subsistence purposes, unless otherwise prohibited or provided for in this section. With jigging gear through the ice or rod-and-reel gear in open waters, there is an annual limit of two rainbow or steelhead trout 20 inches or longer, taken from Kenai Peninsula fresh waters.

(C) Under the authority of a Federal subsistence fishing permit, you may take only salmon, trout, Dolly Varden, and other char. Permits will be issued by the in-season manager or designated representative and will be valid for that regulatory year, except as otherwise provided for in this section, or as stated under the permit conditions, unless the season is closed or restricted by a special action.

(D) All fish taken under the authority of a Federal subsistence fishing permit must be marked and recorded prior to leaving the fishing site.

(*1*) The fishing site includes the particular Federal public waters and/or adjacent shoreline from which the fish were harvested.

(*2*) Marking means removing the dorsal fin.

(E) You may not take grayling or burbot for subsistence purposes.

(F) You may take smelt with dip nets in fresh water only from April 1 through June 15. There are no harvest or possession limits for smelt.

(G) You may take whitefish in the Tyone River drainage using gillnets.

(H) You may take fish by gear listed in this section unless restricted by other regulations in this section or under the terms of a Federal subsistence fishing permit (as may be modified by regulations in this section).

(I) Seasons, harvest and possession limits, and methods and means for take are the same as for the taking of those species under Alaska sport fishing regulations (5 AAC 56 and 5 AAC 57) unless modified herein or by issuance of a Federal special action.

(J) Applicable harvest provisions are as follows:

TABLE 1 TO PARAGRAPH (e)(10)

Location	Methods and means	Permit type
Kasilof River Drainage	Kasilof River dip net or rod and reel for salmon; Kasilof River fish wheel for salmon; Kasilof River gillnet for salmon.	Household Annual Permit.
Kenai River Drainage	Kenai River dip net or rod and reel for salmon; Kenai River gillnet for salmon.	Household Annual Permit.
Kasilof River Drainage	Tustumena Lake rod and reel for salmon; Kasilof River drainage rod and reel for resident species.	General Subsistence Fishing Permit (Daily/Possession Limits).
Kenai River Drainage	Kenai River rod and reel only for salmon; Kenai River and tributaries under ice jigging and rod and reel for resident species.	General Subsistence Fishing Permit (Daily/Possession Limits).
Tustumena Lake	Tustumena Lake under ice fishery	Tustumena Lake Winter Permit.

(*1*) Harvest limits may not be accumulated.

(*2*) Each household may harvest its annual salmon limits in one or more days.

(*3*) All salmon harvested as part of a household annual limit must be reported to the Federal in-season manager within 72 hours of leaving the fishing site.

(*4*) For Ninilchik residents, the household annual limits for Chinook salmon in the Kasilof River and for late-run Chinook salmon in the Kenai River are combined.

(ii) *Seasons, harvest limits, and methods and means for Kasilof River fisheries.* Household annual limits for salmon in Kasilof River fisheries are as follows:

TABLE 2 TO PARAGRAPH (e)(10)

Species	Number of fish allowed for each permit holder	Additional fish allowed for each household member
Sockeye	25	5
Chinook	10	2
Coho	10	2
Pink	10	2

(A) *Kasilof River dip net or rod and reel; salmon.* (*1*) Residents of Ninilchik may take sockeye, Chinook, coho, and pink salmon through a dip net or rod and reel fishery on the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to a marker on the river approximately 2.8 miles below the Tustumena Lake boat ramp.

(*2*) Residents using rod-and-reel gear may fish with up to two baited single or treble hooks.

(*3*) Other species incidentally caught during the dip net and rod and reel fishery may be retained for subsistence uses, including up to 200 rainbow/steelhead trout taken through August 15. After 200 rainbow/steelhead trout have been taken in this fishery or after August 15, all rainbow/steelhead trout must be released unless otherwise provided for in this section.

(*4*) Harvest seasons are as follows:

TABLE 3 TO PARAGRAPH (e)(10)

Species	Season
Sockeye salmon	June 16–August 15.
Chinook salmon	June 16–August 15.
Coho salmon	June 16–October 31.
Pink salmon	June 16–October 31.

(B) *Kasilof River fish wheel; salmon.* (*1*) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon through a fish wheel fishery in the Federal public waters of the upper mainstem of the Kasilof River.

(*2*) Residents of Ninilchik may retain other species incidentally caught in the Kasilof River fish wheel except for rainbow or steelhead trout, which must be released and returned unharmed to the water.

(*3*) Only one fish wheel may be operated on the Kasilof River. The fish wheel must: Have a live box, be monitored when fishing, be stopped from fishing when it is not being monitored or used, and be installed and operated in compliance with any regulations and restrictions for its use within the Kenai National Wildlife Refuge.

(*4*) One registration permit will be available and will be awarded by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, based on the merits of the operational plan. The registration permit will be issued to an organization that, as the fish wheel owner, will be responsible for its construction, installation, operation, use, and removal in consultation with the Federal fishery manager. The owner may not rent or lease the fish wheel for personal gain. As part of the permit, the organization must:

(*i*) *Prior to the season.* Provide a written operational plan to the Federal fishery manager including a description of how fishing time and fish will be offered and distributed among households and residents of Ninilchik.

(*ii*) *During the season.* Mark the fish wheel with a wood, metal, or plastic plate that is at least 12 inches high by 12 inches wide, permanently affixed, and plainly visible and that contains the following information in letters and numerals at least 1 inch high: Registration permit number; organization's name and address; and primary contact person name and telephone number.

(*iii*) *After the season.* Provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to, persons or households operating the gear, hours of operation, and number of each species caught and retained or released.

(*5*) People operating the fish wheel must:

(*i*) Have in possession a valid Federal subsistence fishing permit and remain onsite to monitor the fish wheel and remove all fish at least every hour.

(*ii*) In addition, any person operating the fish wheel who is not the owner must attach to the fish wheel an additional wood, metal, or plastic plate that is at least 12 inches high by 12 inches wide, is plainly visible, and contains the person's fishing permit number, name, and address in letters and numerals at least 1 inch high.

(*6*) The organization owning the fish wheel may operate the fish wheel for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(*i*) Identifies a person who will be responsible for operating the fish wheel; and

(*ii*) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal fishery manager.

(*7*) Fishing is allowed from June 16 through October 31 on the Kasilof River unless closed or otherwise restricted by Federal special action.

(C) *Kasilof River gillnet; salmon.* (*1*) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon in the Federal public waters of the upper mainstem of the Kasilof River from a Federal regulatory marker on the river below the outlet of Tustumena Lake downstream to the Tustumena Lake boat launch with a single gillnet from June 16 through August 15.

(*2*) Only one community gillnet may be operated on the Kasilof River.

(*i*) The gillnet may not: Be over 10 fathoms in length, be larger than 5.25-inch mesh, and obstruct more than half of the river width with stationary fishing gear.

(*ii*) Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(*iii*) The gillnet may be operated as a set gillnet in a fixed location, as a pole-net system drifted through an area while wading, or as a drift net from a boat.

(*3*) One registration permit will be available and will be issued by the Federal in-season fishery manager, in consultation with the Kenai National Wildlife Refuge manager, to the Ninilchik Traditional Council. As the community gillnet owner, the Ninilchik Traditional Council will be responsible for its use and removal in consultation with the Federal in-season manager. As part of the permit, after the season, the Ninilchik Traditional Council must provide written documentation of required evaluation information to the Federal fishery manager including, but not limited to:

(*i*) Persons or households operating the gear;

(*ii*) Hours of operation; and

(*iii*) Number of each species caught and retained or released.

(*4*) The community gillnet is subject to compliance with applicable Kenai National Wildlife Refuge regulations and restrictions.

(*5*) The Ninilchik Traditional Council may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(*i*) Identifies a person who will be responsible for fishing the gillnet; and

(*ii*) Includes provisions for recording daily catches within 72 hours, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal in-season manager.

(*6*) Residents of Ninilchik may retain other species incidentally caught in the Kasilof River community gillnet fishery. The gillnet fishery will be closed when the retention of rainbow or steelhead trout has been restricted under Federal subsistence regulations.

(D) *Tustumena Lake rod and reel; salmon.* (*1*) In addition to the dip net and rod and reel fishery on the upper mainstem of the Kasilof River described under paragraph (e)(10)(ii)(A)(*1*) of this section, residents of Ninilchik may also take coho and pink salmon through a rod and reel fishery in Tustumena Lake. Fishing is allowed with up to two baited single or treble hooks.

(*2*) Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these species under Alaska sport fishing regulations (5 AAC 56), except for the following harvest and possession limits:

TABLE 4 TO PARAGRAPH (e)(10)

Species	Size	Limits
Coho salmon	16 inches and longer	4 per day and 4 in possession.
Pink salmon	16 inches and longer	6 per day and 6 in possession.

(E) *Kasilof drainage rod and reel; resident species.* Resident fish species including lake trout, rainbow or steelhead trout, and Dolly Varden or Arctic char may be harvested by rod and reel in federally managed waters of the Kasilof River drainage the entire year as follows:

TABLE 5 TO PARAGRAPH (e)(10)

Species	Specifications	Limits
Lake trout	Fish 20 inches and longer	4 per day and 4 in possession.
	Fish less than 20 inches in length	15 per day and 15 in possession.
Dolly Varden and Arctic char	In flowing waters	4 per day and 4 in possession.
	In lakes and ponds	10 per day and 10 in possession.
Rainbow or steelhead trout	In flowing waters	2 per day and 2 in possession.
	In lakes and ponds	5 per day and 5 in possession.

(F) *Tustumena Lake under ice fishery; resident species.* (*1*) You may fish in Tustumena Lake with a gillnet under the ice, or with jigging gear used through the ice. The gillnet may not be longer than 10 fathoms.

(*2*) Harvest limits are as follows:

TABLE 6 TO PARAGRAPH (e)(10)

Methods	Limits	Additional provisions
Jigging gear through the ice	Household annual limit of 30 fish in any combination of lake trout, rainbow trout, and Dolly Varden or Arctic char.	Household limits are included in the overall total annual harvest quota.
Gillnet under the ice	Total annual harvest quota of 200 lake trout, 200 rainbow trout, and 500 Dolly Varden or Arctic char.	The Federal in-season manager will issue a closure for this fishery once any of these quotas has been met.

(*3*) You may harvest fish under the ice only in Tustumena Lake. Gillnets are not allowed within a ¼ mile radius of the mouth of any tributary to Tustumena Lake, or the outlet of Tustumena Lake.

(*4*) A permit is required. The permit will be issued by the Federal in-season manager or designated representative and will be valid for the winter season unless the season is closed by special action.

(*i*) The permittee must report the following information: The number of each species caught; the number of each species retained; the length, depth (number of meshes deep), and mesh size of gillnet fished; the fishing site; and the total hours fished.

(*ii*) The gillnet must be checked at least once in every 48-hour period.

(*iii*) For unattended gear, the permittee's name and address must be plainly and legibly inscribed on a stake at one end of the gillnet.

(*5*) Incidentally caught fish may be retained and must be recorded on the permit before transporting fish from the fishing site.

(*6*) Failure to return the completed harvest permit by May 31 may result in issuance of a violation notice and/or denial of a future subsistence permit.

(iii) *Seasons, harvest limits, and methods and means for Kenai River fisheries.* Household annual limits for salmon in Kenai River fisheries are as follows:

TABLE 7 TO PARAGRAPH (e)(10)

Species	Number of fish allowed for each permit holder	Additional fish allowed for each household member	Additional provisions
Sockeye salmon	25	5	Chum salmon that are retained are to be included within the annual limit for sockeye salmon.
Chinook salmon— (July 1 through July 15).	2	1	For the Kenai River community gillnet fishery described under paragraph (e)(10)(iii)(B) of this section.
Chinook salmon— (July 16 through August 31).	10	2	
Coho salmon	20	5	
Pink salmon	15	5	

(A) *Kenai River dip net or rod and reel; salmon.* (*1*) You may take only sockeye salmon through a dip net or rod and reel fishery at one specified site on the Russian River.

(*i*) For the Russian River fishing site, incidentally caught fish may be retained for subsistence uses, except for Chinook salmon, coho salmon, rainbow trout, and Dolly Varden, which must be released.

(*ii*) At the Russian River Falls site, dip netting is allowed from a Federal regulatory marker near the upstream end of the fish ladder at Russian River Falls downstream to a Federal regulatory marker approximately 600 yards below Russian River Falls. Residents using rod and reel gear at this fishery site may not fish with bait at any time.

(*2*) You may take sockeye, Chinook, coho, and pink salmon through a dip net or rod and reel fishery at two

specified sites on the Kenai River below Skilak Lake and as provided in this section.

(*i*) For both Kenai River fishing sites below Skilak Lake, incidentally caught fish may be retained for subsistence uses, except for Chinook salmon prior to July 16 (unless otherwise provided for in this section), rainbow trout 18 inches or longer, and Dolly Varden 18 inches or longer, which must be released.

(*ii*) At the Kenai River Moose Range Meadows site, dip netting is allowed only from a boat from a Federal regulatory marker on the Kenai River at about river mile 29 downstream approximately 2.5 miles to another marker on the Kenai River at about river mile 26.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15 through August 31.

(*iii*) At the Kenai River mile 48 site, dip netting is allowed while either standing in the river or from a boat, from Federal regulatory markers on both sides of the Kenai River at about river mile 48 (approximately 2 miles below the outlet of Skilak Lake) downstream approximately 2.5 miles to a marker on the Kenai River at about river mile 45.5. Residents using rod and reel gear at this fishery site may fish from boats or from shore with up to two baited single or treble hooks June 15 through August 31.

(*3*) Fishing seasons are as follows:

TABLE 8 TO PARAGRAPH (e)(10)

Species	Season	Location
Sockeye salmon	June 15–August 15	All three sites.
Chinook salmon	July 16–September 30	Kenai River sites only.
Pink salmon	July 16–September 30	Kenai River sites only.
Coho salmon	July 16–September 30	Kenai River sites only.

(B) *Kenai River gillnet; salmon.* (*1*) Residents of Ninilchik may harvest sockeye, Chinook, coho, and pink salmon in the Moose Range Meadows area of the Federal public waters of the Kenai River with a single gillnet to be managed and operated by the Ninilchik Traditional Council.

(*2*) Fishing will be allowed July 1 through August 15 and September 10–30 on the Kenai River unless closed or otherwise restricted by Federal special action. The following conditions apply to harvest in the Kenai River community gillnet fishery:

(*i*) Salmon taken in this fishery will be included as household annual limits of participating households.

(ii) The Ninilchik Traditional Council will report all harvested fish within 72 hours of leaving the gillnet location.

(*iii*) Additional harvest restrictions for this fishery are as follows:

TABLE 9 TO PARAGRAPH (e)(10)

Species	Period	Harvest	Fishery limits
Sockeye salmon	July 1–August 15 and September 10–30.		
Chinook salmon less than 46 inches in length or greater than 55 inches in length.	July 1–15	Fish may be retained if the most current preseason forecast from the State of Alaska Department of Fish and Game projects the in-river run to be within or above the optimal escapement goal range for early-run Chinook salmon; otherwise, live fish must be released.	Fishery will close until July 16 once 50 Chinook salmon have been retained or released.
Chinook salmon	July 16–August 15		Fishery will close prior to August 15 if 200 Chinook salmon have been retained or released between July 16 and that date. Fishery will reopen September 10–30 for species available at that time.
Pink salmon	July 16–August 15 and September 10–30.		
Coho salmon	July 16–August 15 and September 10–30.		
Incidentally caught rainbow trout and Dolly Varden.		All live fish must be released. Fish that die in net may be retained.	Fishery will close for the season once 100 rainbow trout or 150 Dolly Varden have been released or retained.

(*iv*) Chinook salmon less than 20 inches in length may be retained and do not count towards retained or released totals.

(*v*) Other incidentally caught species may be retained; however, all incidental fish mortalities, except for Chinook salmon less than 20 inches in length, count towards released or retained totals specified in this section.

(*3*) Only one community gillnet may be operated on the Kenai River.

(*i*) The gillnet may not: Be over 10 fathoms in length to take salmon; be larger than 5.25-inch mesh; and obstruct more than half of the river width with stationary fishing gear.

(*ii*) Subsistence stationary gillnet gear may not be set within 200 feet of other subsistence stationary gear.

(*4*) One registration permit will be available and will be issued by the Federal in-season manager, in consultation with the Kenai National Wildlife Refuge manager, to the Ninilchik Traditional Council. As the

community gillnet owner, the Ninilchik Traditional Council will be responsible for its use and removal in consultation with the Federal in-season manager. As part of the permit, the Ninilchik Traditional Council must provide post-season written documentation of required evaluation information to the Federal in-season manager including, but not limited to:

(*i*) Persons or households operating the gear;

(*ii*) Hours of operation; and

(*iii*) Number of each species caught and retained or released.

(*5*) The Ninilchik Traditional Council may operate the net for subsistence purposes on behalf of residents of Ninilchik by requesting a subsistence fishing permit that:

(*i*) Identifies a person who will be responsible for fishing the gillnet; and

(*ii*) Includes provisions for recording daily catches, the household to whom the catch was given, and other information determined to be necessary for effective resource management by the Federal in-season manager.

(C) *Kenai River rod and reel only; salmon.* (*1*) For federally managed waters of the Kenai River and its tributaries, you may take sockeye, Chinook, coho, pink, and chum salmon through a separate rod and reel fishery in the Kenai River drainage.

(*2*) Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these salmon species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57 and 5 AAC 77.540), except for the following harvest and possession limits:

TABLE 10 TO PARAGRAPH (e)(10)

Species	Size	Limits
Chinook salmon— (January 1 through July 15).	Less than 46 inches or 55 inches and longer.	2 per day and 2 in possession.
Chinook salmon— (July 16 through August 31).	20 inches and longer	2 per day and 2 in possession.
All other salmon	16 inches and longer	6 per day and 6 in possession, of which no more than 4 per day and 4 in possession may be Coho salmon, except for the Sanctuary Area and Russian River where no more than 2 per day and 2 in possession may be Coho salmon.

(*i*) In the Kenai River below Skilak Lake, fishing is allowed with up to two baited single or treble hooks June 15 through August 31.

(*ii*) Annual harvest limits for any combination of Chinook salmon are four for each permit holder.

(*iii*) Incidentally caught fish, other than salmon, are subject to regulations found in paragraph (e)(10)(iii)(D) of this section.

(D) *Kenai River and tributaries under ice jigging and rod and reel; resident species.* (*1*) For federally managed waters of the Kenai River and its tributaries below Skilak Lake outlet at river mile 50, you may take resident fish species including lake trout, rainbow trout, and Dolly Varden or Arctic char with jigging gear through the ice or rod and reel gear in open waters. Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these resident species under State of Alaska fishing regulations (5 AAC 56, 5 AAC 57, and 5 AAC 77.540), except for the following harvest and possession limits:

TABLE 11 TO PARAGRAPH (e)(10)

Species	Specifications	Limits
Lake trout	20 inches or longer	4 per day and 4 in possession.
	Less than 20 inches	15 per day and 15 in possession.
Dolly Varden or Arctic char	In flowing waters	For fish less than 18 inches, 1 per day and 1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one may be 20 inches or longer, may be harvested daily.
Rainbow or steelhead trout	In flowing waters	For fish less than 18 inches in length, 1 per day and 1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one fish 20 inches or longer may be harvested daily.

(*2*) For federally managed waters of the upper Kenai River and its tributaries above Skilak Lake outlet at river mile 50, you may take resident fish species including lake trout, rainbow trout, and Dolly Varden or Arctic char with jigging gear through the ice or rod and reel gear in open waters. Seasons, areas, harvest and possession limits, and methods and means for take are the same as for the taking of these resident species under Alaska fishing regulations (5 AAC 56, 5 AAC 57, 5 AAC 77.540), except for the following harvest and possession limits:

TABLE 12 TO PARAGRAPH (e)(10)

Species	Specifications	Limits
Lake trout	20 inches or longer	4 per day and 4 in possession.
	Less than 20 inches	15 per day and 15 in possession.
	From Hidden Lake	2 per day and 2 in possession regardless of length.
Dolly Varden or Arctic char	In flowing waters	For fish less than 16 inches in length, 1 per day and 1 in possession.
	In lakes and ponds	2 per day and 2 in possession, of which only one fish 20 inches or longer may be harvested daily.

TABLE 12 TO PARAGRAPH (e)(10)—Continued

Species	Specifications	Limits
Rainbow or steelhead trout	In flowing waters In lakes and ponds	For fish less than 16 inches in length, 1 per day and 1 in possession. 2 per day and 2 in possession, of which only one fish 20 inches or longer may be harvested daily.

(11) *Prince William Sound Area.* The Prince William Sound Area includes all waters and drainages of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(i) You may take fish, other than rainbow/steelhead trout, in the Prince William Sound Area only under authority of a subsistence fishing permit, except that a permit is not required to take eulachon. You make not take rainbow/steelhead trout, except as otherwise provided for in this paragraph (e)(11).

(A) In the Prince William Sound Area within Chugach National Forest and in the Copper River drainage downstream of Haley Creek, you may accumulate Federal subsistence fishing harvest limits with harvest limits under State of Alaska sport fishing regulations provided that accumulation of fishing harvest limits does not occur during the same day.

(B) You may accumulate harvest limits of salmon authorized for the Copper River drainage upstream from Haley Creek with harvest limits for salmon authorized under State of Alaska sport fishing regulations.

(ii) You may take fish by gear listed in paragraph (b)(1) of this section unless restricted in this section or under the terms of a subsistence fishing permit.

(iii) If you catch rainbow/steelhead trout incidentally in other subsistence net fisheries, you may retain them for subsistence purposes, unless restricted in this section.

(iv) In the Copper River drainage, you may take salmon only in the waters of the Upper Copper River District, or in the vicinity of the Native Village of Batzulnetas.

(v) In the Upper Copper River District, you may take salmon only by fish wheels, rod and reel, or dip nets.

(vi) Rainbow/steelhead trout and other freshwater fish caught incidentally to salmon by fish wheel in the Upper Copper River District may be retained.

(vii) Freshwater fish other than rainbow/steelhead trout caught incidentally to salmon by dip net in the Upper Copper River District may be retained. Rainbow/steelhead trout caught incidentally to salmon by dip net in the Upper Copper River District must be released unharmed to the water.

(viii) You may not possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit, or rainbow/steelhead trout caught incidentally to salmon by fish wheel, unless the anal fin has been immediately removed from the fish. You must immediately record all retained fish on the subsistence permit. Immediately means prior to concealing the fish from plain view or transporting the fish more than 50 feet from where the fish was removed from the water.

(ix) You may take salmon in the Upper Copper River District from May 15 through September 30 only.

(x) The total annual harvest limit for subsistence salmon fishing permits in combination for the Glennallen Subdistrict and the Chitina Subdistrict is as follows:

(A) For a household with 1 person, 30 salmon, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel.

(B) For a household with 2 persons, 60 salmon, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel, plus 10 salmon for each additional person in a household over 2 persons, except that the household's limit for Chinook salmon taken by dip net or rod and reel does not increase.

(C) Upon request, permits for additional salmon will be issued for no more than a total of 200 salmon for a permit issued to a household with 1 person, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel, or no more than a total of 500 salmon for a permit issued to a household with 2 or more persons, of which no more than 5 may be Chinook salmon taken by dip net and no more than 5 Chinook taken by rod and reel.

(xi) The following apply to Upper Copper River District subsistence salmon fishing permits:

(A) Only one subsistence fishing permit per subdistrict will be issued to each household per year. If a household has been issued permits for both subdistricts in the same year, both permits must be in your possession and readily available for inspection while fishing or transporting subsistence-taken fish in either subdistrict. A qualified household may also be issued a Batzulnetas salmon fishery permit in the same year.

(B) Multiple types of gear may be specified on a permit, although only one unit of gear per person may be operated at any one time.

(C) You must return your permit no later than October 31 of the year in which the permit is issued, or you may be denied a permit for the following year.

(D) A fish wheel may be operated only by one permit holder at one time; that permit holder must have the fish wheel marked as required by paragraph (e)(11)(xii)(B) or (e)(11)(xiii)(E) of this section and during fishing operations.

(E) Only the permit holder and the authorized member(s) of the household listed on the subsistence permit may take salmon.

(F) You must personally operate your fish wheel or dip net.

(G) You may not loan or transfer a subsistence fish wheel or dip net permit except as permitted.

(H) While you are fishing from a boat or other watercraft, you may not use any device that indicates bathymetry and/or fish locations, *e.g.,* fish finders. These devices do not have to be removed or uninstalled from a boat or watercraft.

(xii) If you are a fish wheel owner:

(A) You must register your fish wheel with ADF&G or the Federal Subsistence Board.

(B) Your registration number and a wood, metal, or plastic plate at least 12 inches high by 12 inches wide bearing either your name and address, or your Alaska driver's license number, or your Alaska State identification card number in letters and numerals at least 1 inch high, must be permanently affixed and plainly visible on the fish wheel when the fish wheel is in the water.

(C) Only the current year's registration number may be affixed to the fish wheel; you must remove any other registration number from the fish wheel.

(D) You are responsible for the fish wheel; you must remove the fish wheel from the water at the end of the permit period.

(E) You may not rent, lease, or otherwise use your fish wheel used for subsistence fishing for personal gain.

(xiii) If you are operating a fish wheel:

(A) You may operate only one fish wheel at any one time.

(B) You may not set or operate a fish wheel within 75 feet of another fish wheel.

(C) You must check your fish wheel at least once every 10 hours and remove all fish.

(D) No fish wheel may have more than two baskets.

(E) If you are a permittee other than the owner, you must attach an additional wood, metal, or plastic plate at least 12 inches high by 12 inches wide, bearing your name and address in letters and numerals at least 1 inch high, to the fish wheel so that the name and address are plainly visible.

(xiv) A subsistence fishing permit may be issued to a village council, or other similarly qualified organization whose members operate fish wheels for subsistence purposes in the Upper Copper River District, to operate fish wheels on behalf of members of its village or organization. The following additional provisions apply to subsistence fishing permits issued under this paragraph (e)(11)(xiv):

(A) The permit will list all households and household members for whom the fish wheel is being operated. The permit will identify a person who will be responsible for the fish wheel and will be the same person as is listed on the fish wheel described in paragraph (e)(11)(xiii)(E) of this section.

(B) The allowable harvest may not exceed the combined seasonal limits for the households listed on the permit; the permittee will notify the ADF&G or Federal Subsistence Board when households are added to the list, and the seasonal limit may be adjusted accordingly.

(C) Members of households listed on a permit issued to a village council or other similarly qualified organization are not eligible for a separate household subsistence fishing permit for the Upper Copper River District.

(D) The permit will include provisions for recording daily catches for each fish wheel; location and number of fish wheels; full legal name of the individual responsible for the lawful operation of each fish wheel as described in paragraph (e)(11)(xiii)(E) of this section; and other information determined to be necessary for effective resource management.

(xv) You may take salmon in the vicinity of the former Native village of Batzulnetas only under the authority of a Batzulnetas subsistence salmon fishing permit available from the National Park Service under the following conditions:

(A) You may take salmon only in those waters of the Copper River between National Park Service regulatory markers located near the mouth of Tanada Creek and approximately one-half mile downstream from that mouth and in Tanada Creek between National Park Service regulatory markers identifying the open waters of the creek.

(B) You may use only fish wheels, dip nets, and rod and reel on the Copper River and only dip nets, spears, fyke nets, and rod and reel in Tanada Creek. One fyke net and associated lead may be used in Tanada Creek upstream of the National Park Service weir.

(C) You may take salmon only from May 15 through September 30 or until the season is closed by special action.

(D) You may retain Chinook salmon taken in a fish wheel in the Copper River. You must return to the water unharmed any Chinook salmon caught in Tanada Creek.

(E) You must return the permit to the National Park Service no later than October 15 of the year the permit was issued.

(F) You may only use a fyke net after consultation with the in-season manager. You must be present when the fyke net is actively fishing. You may take no more than 1,000 sockeye salmon in Tanada Creek with a fyke net.

(xvi) You may take pink salmon for subsistence purposes from fresh water with a dip net from May 15 through September 30, 7 days per week, with no harvest or possession limits in the following areas:

(A) Green Island, Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island, and adjacent islands, and the mainland waters from the outer point of Granite Bay located in Knight Island Passage to Cape Fairfield;

(B) Waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.

(xvii) In the Chugach National Forest portion of the Prince William Sound Area, you must possess a Federal subsistence fishing permit to take salmon, trout, whitefish, grayling, Dolly Varden, or char. Permits are available from the Cordova Ranger District.

(A) Salmon harvest is not allowed in Eyak Lake and its tributaries, Copper River and its tributaries, and Eyak River upstream from the Copper River Highway bridge.

(B) You must record on your subsistence permit the number of subsistence fish taken. You must record all harvested fish prior to leaving the fishing site, and return the permit by the due date marked on the permit.

(C) You must remove both lobes of the caudal (tail) fin from subsistence-caught salmon before leaving the fishing site.

(D) You may take salmon by rod and reel, dip net, spear, and gaff year round.

(E) For a household with 1 person, 15 salmon (other than pink) may be taken, and 5 cutthroat trout, with only 2 over 20 inches, may be taken; for pink salmon, see the conditions of the permit.

(F) For a household with 2 persons, 30 salmon (other than pink) may be taken, plus an additional 10 salmon for each additional person in a household over 2 persons, and 5 cutthroat trout, with only 2 over 20 inches per each household member with a maximum household limit of 30 cutthroat trout may be taken; for pink salmon, see the conditions of the permit.

(G) You may take Dolly Varden, Arctic char, whitefish, and grayling with rod and reel and spear year round and with a gillnet from January 1–April 1. The maximum incidental gillnet harvest of trout is 10.

(H) You may take cutthroat trout with rod and reel and spear from June 15 to April 14th and with a gillnet from January 1 to April 1.

(I) You may not retain rainbow/steelhead trout for subsistence unless taken incidentally in a subsistence gillnet fishery. Rainbow/steelhead trout must be immediately released from a dip net without harm.

* * * * *

Sue Detwiler,

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[CG Docket No. 17–59; FCC 20–187; FRS 17439]

Advanced Methods To Target and Eliminate Unlawful Robocalls

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules to implement the TRACED Act and require voice service providers to better police their networks. Specifically, the Commission requires voice service providers to meet

certain affirmative obligations and to better police their networks against illegal calls. Second, the Commission expands its existing call blocking safe harbor to cover network-based blocking of certain calls that are highly likely to be illegal. Third, the Commission adopts rules to provide greater transparency and ensure that both callers and consumers can better identify blocked calls and ensure those that are wanted are un-blocked, consistent with the TRACED Act. Finally, the Commission broadens its point-of-contact requirement to cover caller ID authentication concerns under the TRACED Act.

DATES: Effective May 6, 2021 except instruction 5 adding § 64.1200(k)(9), which is effective January 1, 2022, and instruction 6 adding § 64.1200(k)(10) and (n)(2), which is delayed indefinitely. The Commission will publish a document in the **Federal Register** announcing the effective date for § 64.1200(k)(10) and (n)(2).

FOR FURTHER INFORMATION CONTACT: Jerusha Burnett, Consumer Policy Division, Consumer and Governmental Affairs Bureau, email at *jerusha.burnett@fcc.gov* or by phone at (202) 418–0526.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Fourth Report and Order,* in CG Docket No. 17–59, FCC 20–187, adopted on December 29, 2020, and released on December 30, 2020. The full text of document FCC 20–187 is available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS). The full text of document FCC 20–187 and any subsequently filed documents in this matter may also be found by searching ECFS at: *http://apps.fcc.gov/ecfs/* (insert CG Docket No. 17–59 into the Proceeding block). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov,* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

Final Paperwork Reduction Act of 1995 Analysis

This document contains new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection requirements contained in the *Fourth Report and Order* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

In this document, the Commission has assessed the effects of its requirements that voice service providers report to the Commission following a notification that certain telephone network traffic appears to be unlawful and that voice service providers that block calls disclose to consumers a list of blocked calls upon request. The Commission finds the requirement to report to the Commission is necessary to ensure that voice service providers are taking proper steps to prevent illegal calls from reaching consumers and to avoid the risk of bad actor voice service providers shielding bad actor callers. The Commission finds that the blocked calls list is necessary to ensure consumers receive transparency and effective redress. Further, the Commission's decisions to allow flexibility in the method for providing the list and to limit the scope of the list appropriately balance small business' concerns.

Sections 641.1200(k)(10) and 64.1200(n)(2) contain information collection requirements and are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective dates for those sections.

Congressional Review Act

The Commission sent a copy of the *Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Synopsis

1. With the *Fourth Report and Order,* the Commission takes further steps to implement the TRACED Act and require voice service providers to better police their networks. The Commission also responds to caller concerns that their calls may be blocked in error and ensures that consumers receive much-needed protection from harassing and even fraudulent calls. First, the Commission requires all voice service providers to take steps to stop illegal traffic on their networks and assist the Commission, law enforcement, and the industry traceback consortium (Consortium) in tracking down callers that make such calls. Second, the Commission expands its safe harbor to include network-based blocking based on reasonable analytics that incorporate caller ID authentication information designed to identify calls that are highly likely to be illegal, if this blocking is managed with human oversight and network monitoring sufficient to ensure that blocking is working as intended. Third the Commission requires that voice service providers that block calls disclose such blocking, establish a dispute resolution process to correct erroneous blocking, and promptly resolve disputes. Finally, the Commission addresses several other pending issues from the *Call Blocking Further Notice,* published at 85 FR 46063, July 31, 2020, including whether to adopt a further safe harbor for the misidentification of the level of trust for calls and additional methods to protect consumers from unwanted calls and text messages from unauthenticated numbers.

Affirmative Obligations for Voice Service Providers

2. The Commission and law enforcement play critical roles in combatting illegal robocalls, as evidenced by the FCC/FTC collaboration to stop COVID–19-related scam calls. The Commission thus wants to ensure that both the Commission and law enforcement have information necessary to combat illegal robocalling. The Commission now requires every voice service provider to: (1) Respond to traceback requests from the Commission, civil and criminal law enforcement, and the Consortium; (2) take steps to effectively mitigate illegal traffic when it receives actual written notice of such traffic from the Commission; and (3) implement affirmative, effective measures to prevent new and renewing customers from using its network to originate illegal calls.

Respond to Traceback Requests

3. The Commission adopts its proposal to require all voice service providers to respond to traceback requests from the Commission, civil and criminal law enforcement, and the Consortium. And the Commission makes clear that it expects voice service providers to reply fully and timely. Traceback is an essential tool for determining the source of illegal calls. It is useful to prevent further calls from the same source and to inform enforcement actions. This information is particularly important when the caller ID may be spoofed, as it can greatly assist with identification of the actual caller.

4. *Entities Authorized to Make the Request.* The Commission adopts its proposal to require voice service providers to respond to traceback requests from the Commission, civil and criminal law enforcement, and the Consortium. The Commission encourages, but does not require, law enforcement to make such requests through the Consortium, where possible. This will improve efficiency and help ensure that requests are handled in a consistent manner. In requiring response to the Consortium, the Commission does not vest any authority in the Consortium or its members to address non-compliance under the Commission's rules. Instead, the Consortium should inform the Commission when they identify a pattern of non-compliance, and the Commission will take any appropriate action.

Take Steps To Effectively Mitigate Illegal Traffic When Notified by the Commission

5. The Commission adopts a modified version of its proposal to require voice service providers to take steps to effectively mitigate illegal traffic when notified by the Commission. Specifically, the Commission directs the Commission's Enforcement Bureau to identify suspected illegal calls and provide written notice to voice service providers. This requirement builds on the safe harbor it established in the *Call Blocking Order,* published at 85 FR 56530, September. 14, 2020. That safe harbor permits downstream voice service providers to block calls where an upstream voice service provider failed to effectively mitigate illegal traffic after being notified of such traffic by the Commission. This requirement takes the additional step of holding the notified voice service provider liable for that failure.

6. When providing the notice under this new rule, the Enforcement Bureau shall: (1) Identify with as much particularity as possible the suspected traffic; (2) cite the statutory or regulatory provisions the suspected traffic appears to violate; (3) provide the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful, including any relevant nonconfidential evidence from credible sources such as the Consortium or law enforcement agencies; and (4) direct the voice service provider receiving the notice that it must comply with § 64.1200(n)(2) of the Commission's rules. The Commission generally expects that the Enforcement Bureau will notify either the originating voice service provider that has a direct relationship to the caller or the intermediate provider that is the gateway onto the U.S. network.

7. Upon receiving such notice, the voice service provider must promptly investigate the traffic identified in the notice and either take steps to effectively mitigate the identified traffic, in the manner described below, or respond to the Commission that the service provider has a reasonable basis for concluding that the identified calls are not illegal. If the notified voice service provider determines that such traffic comes from an upstream voice service provider with direct access to the U.S. public switched telephone network, the notified voice service provider must promptly inform the Commission of the source of the traffic and, if possible, take lawful steps to effectively mitigate this traffic. Such steps could include, for example, enforcing contract terms or blocking the calls from bad actor providers.

8. Each notified voice service provider must promptly report the results of its investigation to the Enforcement Bureau, including any steps the voice service provider has taken to effectively mitigate the identified traffic, or an explanation as to why the voice service provider reasonably concluded that the identified calls were not illegal, and what steps it took to reach that conclusion. The Commission emphasizes that a ''reasonable basis for concluding that the calls are not illegal'' requires sufficient due diligence on the part of the voice service provider making such a determination. For example, the mere existence of a contractual provision forbidding illegal calls on the network is not sufficient to make this determination. Similarly, in cases where a caller makes telemarketing calls that include prerecorded or artificial voice messages, is it not reasonable to rely solely on a caller's written or verbal assurances in lieu of documented proof of prior express written consent from the called parties. Callers that believe that they have been blocked in error can seek review by the Commission through existing mechanisms.

9. For a voice service provider to take steps to ''effectively mitigate'' the traffic identified, it must first investigate to identify the source of that traffic. Where the source is a customer or some other entity that does not have direct access to the U.S. public switched telephone network, the voice service provider must take steps to prevent that source from continuing to originate such traffic. This could mean ending a customer relationship, limiting access to high-volume origination services, or any other steps that have the effect of stopping this traffic and preventing future, similar traffic. The Commission does not expect that originating voice service providers will need to block calls to comply with this requirement, as such voice service providers have a direct relationship with the customer and can use other mechanisms to address these issues. The Commission notes, however, that blocking may be necessary for gateway providers to comply with these requirements.

10. The Commission anticipates that this requirement will primarily impact originating or gateway voice service providers. If, however, a voice service provider receiving notification from the Commission determines that the source of the illegal traffic is another voice service provider with access to the U.S. public switched telephone network, it must notify the Commission. The originally notified voice service provider must, if possible, take any otherwise lawful steps available to effectively mitigate the identified traffic. Where a voice service provider cannot take immediate action, the Commission encourages voice service providers to use the safe harbor for provider-based blocking the Commission adopted in the *Call Blocking Order,* once the criteria for that safe harbor have been met.

11. The Commission recognizes that intermediate and terminating voice service providers have limited visibility into the actual source of the traffic. The Commission accordingly does not expect perfection in mitigation, nor do the rules it adopts require an intermediate or terminating voice service provider to block all calls from a particular source. Further, the rules the Commission adopts today only require mitigation steps from originating or gateway voice service providers. While gateway providers may need to engage in blocking to comply with this rule, the Commission does not expect them to block all traffic, and encourages use of other methods where available.

Implement Effective Measures To Prevent New and Renewing Customers From Originating Illegal Calls

12. The Commission adopts its proposal to require voice service providers to adopt affirmative, effective measures to prevent new and renewing customers from using their network to originate illegal calls. The Commission requires that all originating voice service providers know their customers and exercise due diligence in ensuring that their services are not used to originate illegal traffic. Beyond that, the Commission does not require that voice service providers take specific, defined steps, but instead permits them

flexibility to determine what works best on their networks. The Commission does recommend that voice service providers exercise caution in granting access to high-volume origination services, to ensure that bad actors do not abuse such services.

13. While more involved investigations represent some burden, particularly for smaller voice service providers, voice service providers of all sizes should be able to impose and enforce relevant contract terms. Of course, contract provisions are only effective if they are enforced, and voice service providers that refuse to do so fail to satisfy this requirement. The Commission also clarifies that, if voice service providers have already implemented effective measures, they do not need to take further steps at this time. Voice service providers, however, that have not done so will need to comply with this requirement when they accept new customers or renew existing customers after the date of these rules.

Expanding the Safe Harbor Based on Reasonable Analytics to Network-Based Blocking

14. The Commission adopts its proposal to expand the safe harbor based on reasonable analytics to cover network-based blocking if the network-based blocking incorporates caller ID authentication information where available and otherwise meets the requirements the Commission adopted both in the *Call Blocking Order* and elsewhere in the *Fourth Report and Order.* To get the benefit of this safe harbor, a terminating voice service provider must ensure its network-based blocking targets only calls highly likely to be illegal, not simply unwanted. It must also manage this blocking with human oversight and network monitoring sufficient to ensure that the blocking works as intended; this must include a process that reasonably determines that the particular call pattern is highly likely to be illegal prior to blocking calls that are part of that pattern. And the Commission expects voice service providers to demonstrate they have conducted an appropriate process should the Commission inquire about specific blocking. The Commission bases this decision on its previous finding that no reasonable consumer would want to receive calls that are highly likely to be illegal. The safe harbor the Commission adopts today ensures that terminating voice service providers can respond to evolving threats while safeguarding the calls consumers want.

15. *Network Blocking Based on Reasonable Analytics.* In expanding its safe harbor, the Commission first makes clear that terminating voice service providers may block calls at the network level, without consumer opt in or opt out, if that blocking is based on reasonable analytics that incorporate caller ID authentication information designed to identify calls and call patterns that are highly likely to be illegal. Terminating voice service providers must manage that blocking with human oversight and network monitoring sufficient to ensure that blocking is working as intended. This must include a process to reasonably determine that the particular call pattern is highly likely to be illegal prior to blocking calls. A terminating voice service provider must disclose to consumers that it is engaging in such blocking so that consumers are fully aware of it. In the *2017 Call Blocking Order,* published at 83 FR 1566, January 12, 2018, the Commission authorized voice service providers to block, without consumer consent, certain categories of calls on the basis that no reasonable consumer would want to receive such calls. The Commission's decision here is an extension of this decision, making clear that a terminating voice service provider may block any calls that it determines are highly likely to be illegal based on certain defined parameters.

16. For purposes of this safe harbor, the Commission makes clear that terminating voice service providers must have in place a process to reasonably determine that the particular call pattern is highly likely to be illegal prior to blocking calls. Doing so will ensure that important calls, including emergency calls, are not blocked in error based solely on analytics. The Commission does not prescribe the specific steps of this process but instead expects that it will include steps designed to find out whether the calls that are part of the call pattern in question are highly likely to be illegal such as dialing the telephone number from which the apparently illegal calls purportedly originate; reviewing complaint data about calls from the source; or contacting the originating voice service provider.

17. The Commission urges terminating voice service providers to be thorough in this process to avoid blocking errors. In particular, the Commission believes terminating voice service providers will need to use a combination of methods in their processes. For example, call-backs may work well for some types of high-volume traffic, but may not be determinative for emergency alerts since the number may not be set up to receive calls. The Commission further clarifies that, because it only authorizes blocking of calls that are part of a call pattern that indicates the calls are highly likely to be illegal, when a terminating voice service provider learns that calls fitting this pattern are likely lawful, that voice service provider must immediately cease network-based blocking. The Commission notes that a voice service provider may continue to block under this safe harbor while investigating a dispute prior to obtaining information that indicates the calls are likely lawful.

Enhanced Transparency and Redress Requirements

18. Consistent with the TRACED Act and building on its *Call Blocking Order and Further Notice,* the Commission adopts additional requirements to provide callers and consumers with more transparency to ensure that they can effectively access redress mechanisms, and ensure that a caller can verify the authenticity of its calls. First, the Commission requires terminating voice service providers that block calls to immediately notify the caller that the call has been blocked by sending either a Session Initiation Protocol (SIP) or ISDN User Part (ISUP) response code, as appropriate, and the Commission requires all voice service providers in the call path to transmit these codes to the origination point. Second, the Commission requires terminating voice service providers that block calls on an opt-in or opt-out basis to disclose to their subscribers a list of blocked calls upon request. Third, when a calling party disputes whether blocking its calls is appropriate, the Commission requires terminating voice service providers to provide a status update to the party that filed the dispute within 24 hours. The Commission requires that the point of contact which terminating voice service providers have established to handle blocking disputes also handle contacts from callers that are adversely affected by information provided by caller ID authentication seeking to verify the authenticity of their calls. Finally, the Commission declines to address the issue of erroneous labeling at this time.

19. The Commission expects voice service providers to satisfy those requirements, whether or not they use a third party, to ensure that the safeguards the Commission adopts to prevent erroneous blocking apply across the network. The Commission therefore declines to allow voice service providers to avoid liability solely because they make use of a third-party

service. By contrast, a voice service provider is not responsible for blocking done by a blocking service chosen by the consumer such as a blocking app.

Immediate Notification of Blocking

20. The Commission requires terminating voice service providers that block calls to immediately notify callers of such blocking. The Commission further directs all voice service providers to perform necessary software upgrades to ensure the codes it requires for such notification are appropriately mapped; voice service providers must ensure that calls that transit over TDM and IP networks return an appropriate code. The Commission requires all voice service providers in the call path to transmit the code, or its equivalent, as discussed below, to the origination point so that callers with the appropriate equipment may receive timely notice of a blocked call. The Commission's requirements ensure that legitimate callers know when their calls are blocked so they can seek redress.

21. *Method of Notification.* To ensure that callers understand these notifications and can make informed decisions regarding next steps, the Commission requires voice service providers to use specific, existing codes when blocking calls. Callers with properly configured equipment will thereby receive sufficient information to determine whether to access redress or investigate the blocking further. The Commission requires that terminating voice service providers that block calls on an IP network return SIP Code 607 or 608, as appropriate. Both of these codes are designed to be used for call blocking. Because SIP codes are not available on non-IP networks, ISUP code 21 is the appropriate code for calls blocked on a TDM network. Therefore, the Commission requires that terminating voice service providers that block calls on a TDM network return ISUP code 21.

22. Many calls transit both IP-based and TDM networks. The Commission therefore establishes requirements regarding how these codes map, or translate, when call signaling transits between IP and TDM. For signals moving from IP to TDM, the Commission directs voice service providers, regardless of their position in the network, to make any necessary upgrades or software configuration changes to ensure that SIP Codes 607 and 608 map to ISUP code 21. In certain cases, callers may also receive SIP code 603 when calls have been blocked. This is likely to occur when call signaling transits from TDM to IP. The Commission further notes that the specifications for SIP code 608 give some guidance for interoperability, including the playing of an announcement. The Commission strongly encourages voice service providers to use this portion of the specification to eliminate confusion caused by ISUP code 21's multiple uses.

23. *Compliance Date.* Finally, the Commission gives voice service providers until January 1, 2022, approximately 12 months after the adoption of the *Order,* to comply with its immediate notification requirements. The Commission recognizes that voice service providers are bearing costs as they work to implement STIR/SHAKEN in the IP portions of their networks, which the Commission has required by June 30, 2021. Any incremental increase in burden could introduce challenges in compliance for some voice service providers. By delaying the compliance date of these requirements until January 1, 2022, which is approximately 12 months from the adoption of the *Order,* or six months from the STIR/SHAKEN implementation compliance date, the Commission ensures that voice service providers can make the necessary software upgrades without diverting resources from STIR/SHAKEN implementation.

Blocked Calls List

24. The TRACED Act directs the Commission to ensure that consumers, as well as callers, have transparency and effective redress when wanted calls are blocked using robocall blocking services provided on an opt-out or opt-in basis pursuant to its *Call Blocking Declaratory Ruling and Further Notice.* Consumers may opt out of blocking services at any time as a form of redress, and the Commission already made clear that voice service providers that use blocking programs should disclose to consumers the types of calls they seek to block and make clear that some wanted calls may be blocked. While a consumer knows that wanted calls may be blocked, consumers may not be able to determine whether blocking has occurred. The Commission thus requires any terminating voice service provider that blocks calls on an opt-in or opt-out basis to provide, on the request of the subscriber to a particular number, a list of all calls intended for that number that the voice service provider or its designee has blocked. The list should contain the calling number and the date and time of the call. Consistent with the TRACED Act, this list must be provided at no additional charge to the consumer. To ensure that this information is provided to the subscriber in a timely manner, the Commission requires that the terminating voice service provider provide this list within three business days of receiving the request. To avoid unwieldy recordkeeping requirements, the Commission limits the reporting requirement to calls blocked in no fewer than the 28 days prior to the request.

25. *Recipients and Content of List.* The Commission requires that the blocked calls list include calls blocked on an opt-out or opt-in basis and that the voice service provider make it available to the subscriber to the called number. The list need only contain calls blocked with consumer consent because consumers can review these calls and make a different choice. This is also consistent with the scope of transparency and effective redress requirement in section 10(b) of the TRACED Act, which applies to ''robocall blocking services provided on an opt-out or opt-in basis.'' The Commission limits the scope of parties who can request and receive blocked calls lists to the subscriber because callers already have transparency and effective redress through the Commission's other requirements and doing so avoids the additional burden on voice service providers of furnishing lists to a potentially large group of others.

26. *Flexibility in Blocked Calls List Mechanism.* Consistent with the call for flexibility in the record, the Commission declines to mandate how voice service providers give subscribers this list. The Commission instead leaves the method of providing the information to the judgment of the voice service provider. For example, voice service providers could use a web portal and those using a third-party blocking service may rely on that third party to provide this list. The ultimate responsibility falls to the voice service provider. Should the third party fail to provide the list consistent with the requirements the Commission adopts herein, the voice service provider will be liable for this failure.

27. *Time for Response and Length of Recordkeeping Requirement.* The Commission requires terminating voice service providers to respond to subscribers' requests for blocked calls lists within three business days of receiving such a request. In establishing this requirement, the Commission balances the burden to the voice service provider against the needs of the subscriber. The Commission determines that three business days is sufficient time for a voice service provider to compile such a list, even if they are using a manual process. It also ensures that the subscriber, who may be requesting the list because they suspect important calls may not be reaching

them, has access to this information in a timely manner.

28. To meet this obligation and for purposes of this rule, voice service providers must retain records of blocked calls for a minimum of four weeks or 28 days. This recognizes the need for subscribers to receive meaningful information and seeks to avoid overly burdening voice service providers with unnecessary recordkeeping requirements. Twenty-eight days provides the information subscribers need and imposes a reasonable burden on voice service providers.

Status of Call Blocking Dispute Resolution

29. To ensure that callers can track dispute status and to increase transparency consistent with the TRACED Act, the Commission enhances its existing redress requirements to require voice service providers to respond to blocking disputes they receive through their established point of contact by providing a status update to the party that filed the dispute within 24 hours. In doing so, the Commission does not modify its requirement that disputes are resolved in a reasonable amount of time and at no cost to the caller, if the complaint is made in good faith. Instead, the Commission recognizes both that callers need speedy resolution of disputes and that voice service providers may need additional time to resolve disputes in certain instances. By requiring a status update within 24 hours, the Commission ensures that callers have the information they need while also granting voice service providers flexibility.

Point of Contact for Verifying Call Authenticity

30. The Commission requires that the point of contact terminating voice service providers have established to take blocking disputes also handle contacts from callers that are adversely affected by information provided by caller ID authentication seeking to verify the authenticity of their calls. Because the Commission's rules already require blocking voice service providers to have a point of contact, it expects that most terminating voice service providers already have one in place. Any terminating voice service provider that does not block calls, and takes into account attestation information in determining how to deliver calls, must provide a point of contact to receive caller complaints regarding caller ID authentication consistent with the rules the Commission established in the *Call Blocking Order,* the *Call Blocking Further Notice,* and the *Fourth Report and Order.*

31. Section 4(c)(1)(C) of the TRACED Act requires the Commission to establish a mechanism for callers that are adversely affected by information provided by the caller ID authentication framework to verify the authenticity of the calls. This will provide callers with a mechanism for redress where, for example, calls are blocked due to an incorrect attestation. The Commission specifies that the point of contact is not required to resolve all disputes about attestation level and, in fact, is not properly placed to do so; the terminating voice service provider is not the entity that typically attests to caller ID. Instead, the terminating voice service provider should consider whether the decision in question would be appropriate if the same calls were to receive a higher level of attestation and treat future calls accordingly unless circumstances change.

32. The Commission's decision to require the same point of contact to handle blocking disputes and ''adverse effects'' from caller ID authentication information streamlines the process for both voice service providers and callers. The Commission expects that blocking and authentication concerns will often be interrelated, such as when the adverse effect is blocking. Only the terminating voice service provider can determine whether caller ID authentication was a significant factor in its decision and therefore whether there is a need to adjust its analytics or otherwise change its call-delivery practices. Even when the adverse effects from caller ID authentication and blocking are not directly related, by requiring the same point of contact to receive complaints of both issues, the Commission ensures that a caller only needs to go to one contact at a given terminating voice service provider in order to resolve either issue.

33. Because the TRACED Act requirement seeks to address ''adverse effects,'' not simply incorrect caller ID authentication information, the Commission finds the terminating voice service provider is in the best position to address callers' concerns. The terminating voice service provider takes the action that represents the adverse effect, such as blocking. Originating voice service providers, by contrast, are not so positioned because they cannot ensure that attestation information reaches the terminating voice service provider. This is because STIR/SHAKEN does not work on TDM networks. Even once voice service providers implement STIR/SHAKEN, some voice service providers may thus be unable to sign calls and some calls may drop the initial attestation when they transit on TDM.

No Redress Requirements for Labeling

34. The Commission declines to extend redress mechanisms to erroneous call labeling at this time. Rather, the Commission encourages voice service providers and their analytics partners to work in good faith with callers to avoid erroneous labeling so consumers can better decide whether to answer a call.

Other Issues and Proposals

35. *Safe Harbor for Misidentification of the Level of Trust.* At this time, the Commission declines to extend the safe harbor to cover the inadvertent or unintended misidentification of the level of trust for particular calls. The Commission is not aware of any sources of liability specifically for the misidentification of the level of trust, including any liability stemming from non-federal sources. The Commission makes clear, however, that it will consider such a safe harbor in the future should parties bring such sources of liability to its attention. In reaching this conclusion, the Commission finds that it has met the TRACED Act's direction to provide such a safe harbor through its provision of a safe harbor for blocking, which is the only potential source of liability of which it is aware.

36. *TRACED Act Section 7.* The Commission declines to take further action under section 7 of the TRACED Act at this time, but makes clear that the Commission may act in the future, as circumstances warrant. The Commission believes that, at this time, the best approach to protecting consumers from unwanted calls from unauthenticated numbers is through blocking programs that are consistent with the safe harbor it adopted in the *Call Blocking Order.* The Commission concludes that it has met its statutory obligation under section 7 by seeking comment on additional steps the Commission could take to provide this protection.

37. *Other Section 4(c) Issues.* The Commission adopts the tentative conclusions proposed in the *Call Blocking Further Notice* with regard to section 4(c) of the TRACED Act. Specifically, the Commission finds that it has fully implemented section 4(c)(1), except to the extent that it adopts new rules elsewhere in this *Order.* The Commission similarly concludes that, in establishing the safe harbor adopted in the *Call Blocking Order* and expanded upon elsewhere in this *Order,* it has properly taken into account the

considerations listed in section 4(c)(2) of the TRACED Act.

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Declaratory Ruling and Further Notice. The Commission sought written public comment on the proposals in the *Call Blocking Further Notice,* including comment on the IRFA. The comments received are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Order

2. The *Fourth Report and Order* takes important steps in the fight against illegal robocalls by requiring voice service providers to take certain affirmative steps to prevent illegal calls. Next, the *Fourth Report and Order* expands the Commission's safe harbor to include network-based blocking based on reasonable analytics that incorporate caller ID authentication information designed to identify calls that are highly likely to be illegal, if this blocking is managed with human oversight and network monitoring sufficient to ensure that blocking is working as intended. The *Fourth Report and Order* then takes steps to implement the TRACED Act by ensuring that both callers and consumers are provided with transparency and effective redress. Taken together, these steps will provide greater protection to consumers and increase trust in the telephone system while ensuring that consumers continue to receive the calls they want.

3. *Affirmative Obligations for Voice Service Providers.* The *Fourth Report and Order* establishes three affirmative obligations for all voice service providers. First, all voice service providers must respond to traceback requests from the Commission, civil and criminal law enforcement, or the Industry Traceback Consortium (Consortium). Second, all voice service providers must take steps to effectively mitigate suspected illegal traffic when notified of such traffic by the Commission through the Enforcement Bureau. The notice from the Enforcement Bureau must be in writing and include specific information as detailed in the *Fourth Report and Order* and accompanying rules. The notified voice service provider must investigate the suspected illegal traffic and report to the Enforcement Bureau regarding the results of that investigation, including whether the calls came from another voice service provider with direct access to the U.S. public switched telephone network, and any mitigation steps taken. Finally, all voice service providers must take affirmative, effective steps to prevent new and renewing customers from using their network to originate illegal calls.

4. *Expanding the Safe Harbor Based on Reasonable Analytics to Network-Based Blocking.* The *Fourth Report and Order* expands the Commission's safe harbor for blocking based on reasonable analytics, which must include caller ID authentication information where available, to cover certain network-based blocking, without consumer opt in or opt out. The blocking must be designed to target only calls highly likely to be illegal and managed with sufficient human oversight and network monitoring to ensure that blocking is working as intended. For purposes of the safe harbor, the *Fourth Report and Order* makes clear that voice service providers must have a process in place to reasonably determine that a call pattern is highly likely to be illegal prior to initiating blocking without consumer consent, and must cease blocking when the voice service provider learns that calls are likely lawful.

5. *Enhanced Transparency and Redress.* The *Fourth Report and Order* establishes several requirements to implement the TRACED Act and ensure that both callers and consumers are provided with transparency and effective redress. First, voice service providers that block calls must return to the caller an appropriate SIP or ISUP code, as appropriate. In order to ensure that these codes reach the origination point of the call, all voice service providers must make all necessary software upgrades and configuration changes to ensure that these codes translate properly when a call moves between TDM and IP-based networks. Providers must comply with this requirement by January 1, 2022. Second, voice service providers that block on an opt-in or opt-out basis must provide, on the request of the subscriber to a particular number, a list of all calls intended for that number that the provider has blocked. Voice service providers have three days to provide the list and the list should include all calls blocked on an opt-in or opt-out basis within the 28 days prior to the request. Third, voice service providers that block calls must respond to any blocking dispute within 24 hours, either with a status update or a resolution. This requirement builds on the Commission's requirements in the *Call Blocking Order and Further Notice* that voice service providers designate a single point of contact to handle blocking disputes. Finally, consistent with the TRACED Act, the *Fourth Report and Order* requires that the point of contact previously established to handle blocking disputes also be prepared to handle contacts from callers seeking to verify the authenticity of their calls. Any terminating voice service provider that does not block calls, and takes into account attestation information in determining how to deliver calls, must provide a point of contact to receive caller complaints regarding caller ID authentication consistent with the rules the Commission established in the *Call Blocking Order and Further Notice,* as well as the *Fourth Report and Order.*

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

6. In the *Call Blocking Order and Further Notice,* the Commission solicited comments on how to minimize the economic impact of the new rules on small business. The Commission received seven comments either directly referencing the IRFA or addressing concerns particular to small businesses. Five of these comments addressed the affirmative obligations. Six addressed small business concerns with transparency and redress requirements. Three of these comments addressed issues raised in the *Call Blocking Order and Further Notice* that the *Fourth Report and Order* declines to move forward with, and therefore are not directly relevant to this analysis.

7. *Affirmative Obligations.* The *Fourth Report and Order* requires voice service providers to respond to traceback, mitigate illegal traffic when notified of such traffic by the Commission, and take affirmative steps to prevent illegal calls from new and renewing customers. Commenters, including smaller voice service providers, were generally supportive of these requirements. Commenters did urge us to take certain steps to aid smaller voice service providers and ensure that these voice service providers have the information and resources to comply.

8. With regard to the requirement to respond to traceback requests from the Commission, law enforcement, and the Consortium, ACA Connects notes that many smaller voice service providers may be unfamiliar with the process and urges us to work with stakeholders to educate smaller voice service providers. In the *Fourth Report and Order* the Commission makes clear to voice service providers that it is in their best interest to ensure that they have a clear point of contact at which to receive these requests. The Commission remains open to working with smaller

voice service providers and other stakeholders to ensure that they understand the traceback process and how best to handle these requests.

9. There is significant overlap with commenters' concerns regarding the second and third requirements. In general, these concerns urge the Commission to ensure that these requirements, to the extent possible, consider that smaller voice service providers will have fewer resources. INCOMPAS urges us to avoid overly prescriptive requirements and to provide flexibility on the third requirement. Competitive Carriers urges us to ensure that, with regard to new and renewing customers, the requirement ''is satisfied so long as a provider takes action once it has actual knowledge of a customer originating illegal calls.'' WTA asks that the Commission define particular steps so a voice service provider can be sure it is in compliance. The *Fourth Report and Order* makes clear that, while the Commission does not define specific steps, the Commission does not expect perfection, and that enforcement of contract clauses is sufficient to satisfy the third requirement. By granting flexibility, the Commission ensures that all voice service providers can determine the approach best suited to their networks.

10. *Transparency and Redress.* The *Fourth Report and Order* adopts several transparency and redress requirements, including immediate notification of blocking, provision of a blocked calls list for consumers, and status updates regarding disputes. Commenters raise concerns that prescriptive transparency and redress mandates are particularly burdensome for smaller voice service providers, and generally seek flexibility. They note that smaller providers are more often reliant on third parties, both for blocking services and associated redress. Commenters also raise particular concerns regarding speed of redress for smaller providers. There is, however, some disagreement on this issue, with Telnyx noting that smaller voice service providers may also be disadvantaged if larger voice service providers take too long to resolve disputes. WTA also raises concerns about the burdens associated with requiring a blocked calls list, but does not specifically tie these concerns to voice service provider size.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

11. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

27. The *Fourth Report and Order* requires voice service providers to meet certain affirmative obligations and to provide specific transparency and redress to both callers and consumers. These changes affect small and large companies equally and apply equally to all the classes of regulated entities identified above.

28. *Reporting and Recordkeeping Requirements.* The *Fourth Report and Order* requires voice service providers to effectively mitigate illegal traffic once notified of suspected illegal traffic by the Commission through its Enforcement Bureau. As part of this requirement, a notified voice service provider must promptly report the results of its investigation to the Enforcement Bureau, including any steps the voice service provider has taken to effectively mitigate the identified traffic, or an explanation as to why the voice service provider reasonably concluded that the identified calls were not illegal, and what steps it took to reach that conclusion. The *Fourth Report and Order* also requires voice service providers to provide, at the request of a subscriber, a list of calls blocked on an opt-out or opt-in basis over the prior 28 days. This requires voice service providers that block calls on an opt-out or opt-in basis to retain records regarding such blocking for a minimum of 28 days. The other requirements adopted in the *Fourth Report and Order* do not include specific recordkeeping or retention requirements. However, voice service providers may find it necessary to retain records to ensure that they are able to resolve blocking disputes, respond to traceback, or demonstrate that they are in compliance with the Commission's rules in the event of a dispute.

Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

29. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

30. The Commission considered feedback from the *Call Blocking Order and Further Notice* in crafting the final order. The Commission evaluated the comments with the goal of protecting consumers from illegal calls while also ensuring that both consumers and callers receive transparency and effective redress. For example, in establishing affirmative obligations for voice service providers, the Commission ensured that voice service providers have flexibility to determine how best to comply and made clear that the Commission does not expect perfection With regard to transparency and redress requirements, wherever possible, the Commission ensures that prescriptive requirements make use of already-existing mechanisms to minimize the burdens and declined to require resolution of blocking disputes within a specific timeframe. The Commission also delays the date of compliance, setting it at January 1, 2022, to ensure that voice service providers have sufficient time to make any necessary upgrades or configuration changes before they must provide immediate notification of blocked calls by providing a SIP or ISUP code.

31. The *Fourth Report and Order* carefully weighs the concerns of small voice service providers against those of callers, many of which are also small businesses. In adopting an immediate notification requirement, it makes use of existing mechanisms and delays the compliance date to keep the burden as low as possible while still providing important information to callers. Further, in requiring a status update, but not resolution, within 24 hours, the *Fourth Report and Order* ensures that small voice service providers have necessary time to conduct investigations while also providing valuable information to callers. The requirements adopted in the *Fourth Report and Order* will impose some burden on smaller voice service providers, but these burdens are necessary to implement the TRACED Act and ensure that both callers and consumers are provided with transparency and effective redress.

32. The Commission does not see a need to establish a special timetable for

small entities to reach compliance with the modification to the rules. No small business has asked for a delay in implementing the rules. Any voice service providers that require such a delay may reach out through the usual processes. Similarly, there are no design standards or performance standards to consider in this rulemaking.

Ordering Clauses

91. Accordingly, *it is ordered* that, pursuant to sections 4(i), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 202, 217, 227, 227b, 251(e), 303(r), 403, this Fourth Report and Order *is adopted.*

92. *It is further ordered* that part 0 and part 64 of the Commission's rules are amended as set forth in the Final Rules, with the exception of new §§ 64.1200(k)(9) and (10), and 64.1200(n)(2), and *shall be effective* 30 days after their publication in the **Federal Register**.

93. *It is further ordered* that new § 64.1200(k)(9) *shall be effective* on January 1, 2022.

94. *It is further ordered* that new § 64.1200(k)(10) and 64.1200(n)(2) *shall be effective* 30 days after the Commission's publication of a notice in the **Federal Register**, which will announce approval of portions of the rules requiring approval by OMB under the PRA.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Marlene Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 parts 0 and 64 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409.

■ 2. Effective May 6, 2021, amend § 0.111 by adding paragraph (a)(27) to read as follows:

§ 0.111 Functions of the Bureau.

(a) * * *

(27) Identify suspected illegal calls and provide written notice to voice service providers. The Enforcement Bureau shall:

(i) Identify with as much particularity as possible the suspected traffic;

(ii) Cite the statutory or regulatory provisions the suspected traffic appears to violate;

(iii) Provide the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful, including any relevant nonconfidential evidence from credible sources such as the industry traceback consortium or law enforcement agencies; and

(iv) Direct the voice service provider receiving the notice that it must comply with § 64.1200(n)(2) of the Commission's rules.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

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

■ 4. Effective May 6, 2021, amend § 64.1200 by revising paragraphs (k)(5), (6), and (8), and by adding paragraphs (k)(9) through (11) and (n) to read as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(k) * * *

(5) A provider may not block a voice call under paragraph (k)(1) through (4) or (11) of this section if the call is an emergency call placed to 911.

(6) A provider may not block a voice call under paragraph (k)(1) through (4) or (11) of this section unless that provider makes all reasonable efforts to ensure that calls from public safety answering points and government emergency numbers are not blocked.

* * * * *

(8) Each terminating provider that blocks calls pursuant to this section or utilizes caller ID authentication information in determining how to deliver calls must provide a single point of contact, readily available on the terminating provider's public-facing website, for receiving call blocking error complaints and verifying the authenticity of the calls of a calling party that is adversely affected by information provided by caller ID authentication. The terminating provider must resolve disputes pertaining to caller ID authentication information within a reasonable time and, at a minimum, provide a status update within 24 hours. When a caller makes a credible claim of erroneous blocking and the terminating provider determines that the calls should not have been blocked, or the call delivery decision is not appropriate, the terminating provider must promptly cease the call treatment for that number unless circumstances change. The terminating provider may not impose any charge on callers for reporting, investigating, or resolving either category of complaints, so long as the complaint is made in good faith.

(9)–(10) [Reserved]

(11) A terminating provider may block calls without liability under the Communications Act and the Commission's rules, without giving consumers the opportunity to opt out of such blocking, so long as:

(i) The provider reasonably determines, based on reasonable analytics that include consideration of caller ID authentication information where available, that calls are part of a particular call pattern that is highly likely to be illegal;

(ii) The provider manages its network-based blocking with human oversight and network monitoring sufficient to ensure that it blocks only calls that are highly likely to be illegal, which must include a process that reasonably determines that the particular call pattern is highly likely to be illegal before initiating blocking of calls that are part of that pattern;

(iii) The provider ceases blocking calls that are part of the call pattern as soon as the provider has actual knowledge that the blocked calls are likely lawful;

(iv) The provider discloses to consumers that it is engaging in such blocking;

(v) All analytics are applied in a non-discriminatory, competitively neutral manner;

(vi) Blocking services are provided with no additional line-item charge to consumers; and

(vii) The terminating provider provides, without line item charge to the caller, the redress requirements set forth in subparagraphs 8 and 9.

* * * * *

(n) A voice service provider must:

(1) Respond fully and in a timely matter to all traceback requests from the Commission, civil law enforcement, criminal law enforcement, and the industry traceback consortium;

(2) [Reserved]

(3) Take affirmative, effective measures to prevent new and renewing customers from using its network to originate illegal calls, including knowing its customers and exercising due diligence in ensuring that its

services are not used to originate illegal traffic.

■ 5. Effective January 1, 2022, further amend § 64.1200 by adding paragraph (k)(9) to read as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(k) * * *

(9) Any terminating provider that blocks calls, either itself or through a third-party blocking service, must immediately return, and all voice service providers in the call path must transmit, an appropriate response code to the origination point of the call. For purposes of this rule, an appropriate response code is:

(i) In the case of a call terminating on an IP network, the use of Session Initiation Protocol (SIP) code 607 or 608;

(ii) In the case of a call terminating on a non-IP network, the use of ISDN User Part (ISUP) code 21 with the cause location ''user'';

(iii) In the case of a code transmitting from an IP network to a non-IP network, SIP codes 607 and 608 must map to ISUP code 21; and

(iv) In the case of a code transmitting from a non-IP network to an IP network, ISUP code 21 must map to SIP code 603, 607, or 608 where the cause location is ''user.''

* * * * *

■ 6. Delayed indefinitely, further amend § 64.1200 by adding paragraphs (k)(10) and (n)(2) to read as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(k) * * *

(10) Any terminating provider that blocks calls on an opt-out or opt-in basis, either itself or through a third-party blocking service, must provide, at the request of the subscriber to a number, at no additional charge and within 3 business days of such a request, a list of calls to that number, including the date and time of the call and the calling number, that the terminating provider or its designee blocked within the 28 days prior to the request.

* * * * *

(n) * * *

(2) Take steps to effectively mitigate illegal traffic when it receives actual written notice of such traffic from the Commission through its Enforcement Bureau. In providing notice, the Enforcement Bureau shall identify with as much particularity as possible the suspected traffic; provide the basis for the Enforcement Bureau's reasonable belief that the identified traffic is unlawful; cite the statutory or regulatory provisions the suspected traffic appears to violate; and direct the voice service provider receiving the notice that it must comply with this section. Each notified provider must promptly investigate the identified traffic. Each notified provider must then promptly report the results of its investigation to the Enforcement Bureau, including any steps the provider has taken to effectively mitigate the identified traffic or an explanation as to why the provider has reasonably concluded that the identified calls were not illegal and what steps it took to reach that conclusion. Should the notified provider find that the traffic comes from an upstream provider with direct access to the U.S. Public Switched Telephone Network, that provider must promptly inform the Enforcement Bureau of the source of the traffic and, if possible, take steps to mitigate this traffic; and

* * * * *

[FR Doc. 2021–04414 Filed 4–5–21; 8:45 am]

BILLING CODE 6712–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1333

[Docket No. EP 759]

Demurrage Billing Requirements

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (STB or Board) adopts a final rule that requires Class I carriers to include certain minimum information on or with demurrage invoices and provide machine-readable access to the minimum information.

DATES: This rule is effective on October 6, 2021.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher at (202) 245–0355. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board issued a notice of proposed rulemaking on October 7, 2019, to propose changes to its existing demurrage regulations to address several issues regarding carriers' demurrage billing practices. *Demurrage Billing Requirements* (*NPRM*), EP 759 (STB served Oct. 7, 2019).[1] The Board subsequently issued a supplemental notice on April 30, 2020, seeking comment on potential modifications and additions to the proposal. *Demurrage Billing Requirements* (*SNPRM*), EP 759 (STB served Apr. 30, 2020).[2] Demurrage is subject to Board regulation under 49 U.S.C. 10702, which requires railroads to establish reasonable rates and transportation-related rules and practices, and under 49 U.S.C. 10746, which requires railroads to compute demurrage charges, and establish rules related to those charges, in a way that will fulfill the national needs related to freight car use and distribution and maintenance of an adequate car supply.[3] Demurrage is a charge that serves principally as an incentive to prevent undue car detention and thereby encourage the efficient use of rail cars in the rail network, while also providing compensation to rail carriers for the expense incurred when rail cars are unduly detained beyond a specified period of time (*i.e.,* ''free time'') for loading and unloading. *See Pa. R.R.* v. *Kittaning Iron & Steel Mfg. Co.,* 253 U.S. 319, 323 (1920) (''The purpose of demurrage charges is to promote car efficiency by penalizing undue detention of cars.''); 49 CFR 1333.1; *see also* 49 CFR pt. 1201, category 106.

In the simplest demurrage case, a railroad assesses demurrage on the consignor (the shipper of the goods) for delays in loading cars at origin and on the consignee (the receiver of the goods) for delays in unloading cars and returning them to the rail carrier at destination.[4] Demurrage, however, can also involve third-party intermediaries, commonly known as warehousemen or terminal operators, that accept freight cars for loading and unloading but have no property interest in the freight being transported.[5]

[1] The *NPRM* was published in the **Federal Register,** 84 FR 55109 (Oct. 15, 2019).

[2] The *SNPRM* was published in the **Federal Register,** 85 FR. 26915 (May 6, 2020).

[3] In *Demurrage Liability,* EP 707, slip op. at 15–16 (STB served Apr. 11, 2014), the Board clarified that private car storage is included in the definition of demurrage for purposes of the demurrage regulations established in that decision. The Board uses the same definition of demurrage in this decision.

[4] As the Board noted in *Demurrage Liability,* EP 707, slip op. at 2 n.2, the Interstate Commerce Act, as amended by the ICC Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803, does not define ''consignor'' or ''consignee,'' though both terms are commonly used in the demurrage context. Black's Law Dictionary defines ''consignor'' as ''[o]ne who dispatches goods to another on consignment,'' and ''consignee'' ''as [o]ne to whom goods are consigned.'' *Demurrage Liability,* EP 707, slip op. at 2 n.2 (alterations in original) (citing Black's Law Dictionary 327 (8th ed. 2004)). The Federal Bills of Lading Act defines these terms in a similar manner. *Id.* (citing 49 U.S.C. 80101(1) & (2)).

[5] This decision uses ''rail users'' to broadly mean any person or business that sends goods by rail or receives rail cars for loading or unloading,

Continued

In the *NPRM,* the Board proposed requirements for minimum information to be included on or with Class I carriers' demurrage invoices.[6] *NPRM,* EP 759, slip op. at 8–11, 14–15. In response, the Board received a significant number of comments from stakeholders, including requests for additional and modified invoicing requirements.[7] The Board subsequently issued a supplemental notice of proposed rulemaking to invite comment on potential modifications and additions to the proposed minimum information requirements and format. The Board received comments and replies in response to the *SNPRM.*[8] After considering the record in this proceeding, the Board adopts a final rule requiring Class I carriers to include certain minimum information on or with their demurrage invoices and provide, in the format of their choosing, machine-readable[9] access to the required minimum information, as discussed below.

Background

This proceeding arises, in part, as a result of the testimony and comments submitted in *Oversight Hearing on Demurrage & Accessorial Charges,*[10] Docket No. EP 754. In that proceeding, parties from a broad range of industries raised concerns about demurrage invoicing practices, including issues involving the receipt of invoices containing insufficient information. *See NPRM,* EP 759, slip op. at 5–6 (providing overview of comments received in Docket No. EP 754 related to the adequacy of demurrage invoices).

After carefully considering the comments and testimony in Docket No. EP 754, the Board issued the *NPRM* in this docket. As relevant here, the Board proposed requirements for certain minimum information to be included on or with Class I carriers' demurrage invoices. Specifically, the Board proposed the inclusion of:

- The unique identifying information (*e.g.,* reporting marks and number) of each car involved;
- the following shipment information, where applicable:
  - The date the waybill was created;
  - the status of each car as loaded or empty;
  - the commodity being shipped (if the car is loaded);
  - the identity of the shipper, consignee, and/or care-of party, as applicable; and
  - the origin station and state of the shipment;
- the dates and times of:
  - Actual placement of each car;
  - constructive placement of each car (if applicable and different from actual placement);
  - notification of constructive placement to the shipper, consignee, or third-party intermediary (if applicable); and
  - release of each car; and
- the number of credits and debits attributable to each car (if applicable).

NPRM, EP 759, slip op. at 9–10. The Board also proposed to require Class I carriers, prior to sending demurrage invoices, to take ''appropriate action to ensure that the demurrage charges are accurate and warranted, consistent with the purpose of demurrage.'' *Id.* at 10 (footnote omitted). The Board proposed to add both the minimum information requirements and the appropriate-action requirement to a new regulation at 49 CFR 1333.4. *Id.* at 14. In the *NPRM,* the Board invited stakeholders to comment on the proposed rule, as well as any additional information that Class I carriers could reasonably provide on or with demurrage invoices to help rail users effectively evaluate those invoices. *Id.* at 10.

In response to stakeholders' comments, the Board issued the *SNPRM,* which invited comments on modifications and additions to proposed section 1333.4(a) that the Board was considering. The changes proposed in the *SNPRM* would require that Class I carriers provide certain additional information on or with demurrage invoices, including: (1) The billing cycle covered by the invoice; (2) the original estimated date and time of arrival (ETA) of each car (as established by the invoicing carrier) and the date and time each car was received at interchange (if applicable), either on or with each invoice or, alternatively, upon reasonable request from the invoiced party; and (3) the date and time of each car ordered in (if applicable). *SNPRM,* EP 759, slip op. at 4–5. In the *SNPRM,* the Board also asked for comment on a requirement that Class I carriers provide access to demurrage invoicing data in machine-readable format and invited further comment on the proposed demurrage regulations at section 1333.4(b), which would require Class I carriers to take appropriate action to ensure that demurrage charges are accurate and warranted prior to sending demurrage invoices.[11] *Id.* at 5, 9–11.

As discussed below, rail users express broad support for the minimum information proposed in the *NPRM* and *SNPRM,* although many suggest additions and modifications that they argue would improve the rule. Rail

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regardless of whether that person has a property interest in the freight being transported.

[6] In the *NPRM,* the Board also proposed that the serving Class I carrier be required to directly bill the shipper for demurrage (instead of the warehouseman) when the shipper and warehouseman agree to that arrangement and so notify the rail carrier. *See NPRM,* EP 759, slip op. at 11, 14–15. The Board subsequently adopted a direct-billing final rule. *See Demurrage Billing Requirements,* EP 759 (STB served Apr. 30, 2020). The final rule was published in the **Federal Register,** 85 FR 26858 (May 6, 2020).

[7] In response to the *NPRM,* the Board received comments and/or replies from the following: American Chemistry Council (ACC); American Forest & Paper Association; American Fuel & Petrochemical Manufacturers (AFPM); American Iron and Steel Institute; American Short Line and Regional Railroad Association (ASLRRA); ArcelorMittal USA LLC (AM); Association of American Railroads; Barilla America, Inc.; Canadian National Railway Company (CN); Canadian Pacific Railway Company (CP); Corn Refiners Association (CRA); CSX Transportation, Inc. (CSXT); Daniel R. Elliott; Diversified CPC International, Inc. (CPC); Dow, Inc. (Dow); The Fertilizer Institute (TFI); Freight Rail Customer Alliance (FRCA); Industrial Minerals Association—North America; The Institute of Scrap Recycling Industries, Inc. (ISRI); International Association of Refrigerated Warehouses (IARW); International Liquid Terminals Association (ILTA); International Paper; International Warehouse Logistics Association (IWLA); The Kansas City Southern Railway Company (KCS); Kinder Morgan Terminals (Kinder Morgan); Lansdale Warehouse Company (Lansdale); National Association of Chemical Distributors (NACD); The Mosaic Company; National Coal Transportation Association (NCTA); The National Industrial Transportation League (NITL); North American Freight Car Association (NAFCA); Norfolk Southern Railway Company (NSR); Peabody Energy Corporation; The Portland Cement Association (PCA); Private Railcar Food and Beverage Association, Inc.; Quad, Inc.; Union Pacific Railroad Company (UP); Valley Distributing & Storage Company; Western Coal Traffic League and Seminole Electric Cooperative, Inc. (WCTL & SEC); and Yvette Longonje.

[8] In response to the *SNPRM,* the Board received comments and/or replies from the following: ACC; AFPM; ASLRRA; BNSF Railway Company (BNSF); CN; CP; The Chlorine Institute (TCI); CRA; CSXT; Dow; TFI; FRCA; ISRI; ILTA; IWLA; Lansdale; NACD; NCTA; The National Grain and Feed Association (NGFA); NITL; NSR; PCA; San Jose Distribution Services, Inc.; and UP.

After the record closed, CN submitted a sur-reply to address claims that CN argued ''could give a misleading impression to CN customers about the circumstances in which they could incur demurrage.'' (CN Reply 1–2, July 27, 2020; *see also* Joint Reply (ACC, CRA, TCI, & TFI) 9, July 6, 2020.) Although a reply to a reply is not permitted, *see* 49 CFR 1104.13(c), due to the brevity and narrowness of CN's filing, and in the interest of a complete record, the Board will accept this submission as part of the record.

[9] As discussed below, the Board will adopt a definition for machine-readable data that is ''data in an open format that can be easily processed by computer without human intervention while ensuring no semantic meaning is lost.''

[10] Accessorial charges are not specifically defined by statute or regulation but are generally understood to include charges other than line-haul and demurrage charges. *See Revisions to Arbitration Procedures,* EP 730, slip op. at 7–8 (STB served Sept. 30, 2016) (describing a variety of charges that are considered accessorial charges).

[11] Due to changes adopted in the final rule as discussed below, section 1333.4(b) has been removed and proposed section 1333.4(a) is adopted, with modifications, as section 1333.4.

users also largely support a machine-readable data requirement and the Board's proposal to require Class I carriers to ''take appropriate action to ensure that demurrage charges are accurate and warranted.'' Some rail users argue that the rule should apply to Class II and Class III carriers.

Class I carriers oppose the proposed minimum information requirements but argue that, if they are adopted, carriers should be allowed to provide the information on their existing online platforms rather than on or with invoices. Class I carriers also oppose the Board's proposed appropriate-action requirement. ASLRRA supports the proposed exclusion of Class II and Class III carriers from the rule.

Final Rule

The Board now adopts a final rule requiring Class I carriers to include certain minimum information on or with demurrage invoices and provide machine-readable access to the minimum information. The final rule is below.

Minimum Information Requirements

1. General Comments on Minimum Information Requirements

Class I carriers argue generally that a rule establishing any minimum information requirements is unnecessary; would lead to increased litigation; contradicts Board precedent, the rail transportation policy (RTP) of 49 U.S.C. 10101, and the purpose of demurrage; and would restrict innovation.[12]

CSXT and CN argue that rail users have not shown that Class I carriers have a systemwide problem with demurrage invoicing sufficient to justify the rule. (CSXT Comments 4, Nov. 6, 2019; CN Comments 4–5, Nov. 6, 2019; CSXT Comments 3, June 5, 2020; CN Comments 5–6, June 5, 2020.) CSXT, CN, UP, and KCS assert that rail users' complaints do not apply to them because they already provide sufficient information.[13] To the extent some Class I carriers do not provide sufficient information, CP urges the Board to ''defer to competitive market pressures to provide the incentive for those railroads to innovate and to catch up with their peers.'' (CP Comments 5, Nov. 6, 2019.) CSXT suggests that any problems with carriers' invoicing systems should be addressed on an individualized basis through the Board's formal and informal complaint procedures. (CSXT Comments 4, Nov. 6, 2019.)

CN and CSXT also express concerns about the effect that minimum information requirements would have on demurrage litigation. CN argues that the *NPRM* suggests that ''invoices will not be deemed valid unless they include all eleven specific categories of information,'' which would lead to more frequent and more complex litigation. (CN Comments 7, Nov. 6, 2019; *see also* CSXT Comments 4–5, June 5, 2020 (asserting that minimum information requirements would lead to disputes ''over purely technical issues'').) For example, CN suggests that an invoice recipient could argue that an invoice is invalid if ''a waybilling error by the originating shipper causes a demurrage bill to show the wrong commodity for a particular car'' even if the error has ''no material effect on the demurrage billpayer's ability to understand and potentially dispute demurrage for that car.'' (CN Comments 7, Nov. 6, 2019; *see also* CSXT Comments 4–5, June 5, 2020 (contending that under the Board's proposal, ''shippers could challenge invoices on the basis of missing or incorrect information whether due to carrier fault or otherwise'').)

Furthermore, CSXT and CN argue that minimum information requirements contradict *Maintenance of Records Pertaining to Demurrage, Detention, & Other Related Accessorial Charges by Rail Common Carriers of Property* (*Maintenance of Records*), 367 I.C.C. 145 (1982). (CSXT Comments 3, Nov. 6, 2019; CN Comments 7, Nov. 6, 2019; CN Comments 6, June 5, 2020.) CSXT contends that the Board's proposed rule is contrary to Congressional policy and ''would turn the clock back to long-rejected policies that mandated paperwork requirements for demurrage bills and that prescribed inefficient nationwide practices.'' (CSXT Comments 3, Nov. 6, 2019; *see also* CN Comments 7, Nov. 6, 2019 (arguing that the Board should refrain from reversing ''the principle underlying this [Interstate Commerce Commission (ICC)] decision by adopting requirements for the content of demurrage invoices that would bind all Class I railroads'').)

Additionally, CP and CN contend that minimum information requirements would contravene one of the goals of the RTP at 49 U.S.C. 10101(2), specifically ''to minimize the need for Federal regulatory control over the rail transportation system.'' (CP Comments 5, Nov. 6, 2019; CN Comments 4, June 5, 2020.) CP also argues that the proposed rule is inconsistent with one of the objectives of demurrage—encouraging the efficient use of rail assets—because the proposal ''places the emphasis on empowering customers in their ability to challenge invoiced demurrage charges'' after the fact instead of focusing Board policy on encouraging customers ''to remain actively engaged in monitoring and managing their supply chains to . . . avoid incurring demurrage charges in the first place.'' (CP Comments 4, June 5, 2020.)

Moreover, several carriers allege that minimum information requirements could stifle innovation and discourage carriers from exploring other methods of providing demurrage information to rail users.[14] (CP Comments 5, Nov. 6, 2019; CN Comments 9–10, Nov. 6, 2019; CSXT Comments 1–2, Nov. 6, 2019.)

CN argues that, at most, the Board should adopt a flexible, ''performance-based'' standard that would require Class I carriers to ''ensure that recipients of demurrage invoices have access to sufficient information to be able to understand the basis for the charges and to dispute charges believed to be unwarranted,'' which could be ''provided either on or with the demurrage invoice or through another electronic means, including through a software platform or portal.'' (CN Comments 14–15, June 5, 2020.) CSXT and NSR also support this proposal.

[12] In addition, NSR's pleading contains a vague reference to the Board's authority to regulate this aspect of demurrage. (NSR Comments 2 n.2, June 5, 2020 (''It is not clear to [NSR] that the Board has the authority to compel railroads to provide particular information related to demurrage invoices, and it is even less clear that the Board has the authority to compel railroads to turn over particular railroad records to its customers upon request by those customers.'').) NSR states, however, that it ''does not intend to formally raise such an objection at this point in this process, but reserves its right to do so depending on what the Board ultimately attempts to require in this docket.'' (*Id.*) Given that NSR provides no explanation or support for its passing assertion (and that NSR itself disclaims an intent to raise it), the Board need not address it here. In any event, the *NPRM* discussed the statutory authority for the Board's regulation of demurrage. *NPRM,* EP 759, slip op. at 3.

[13] (CN Comments 4, Nov. 6, 2019 (arguing that rail users' concerns have ''no application to CN, which already provides customers with each of the eleven categories of information specified by the proposed regulations''); CSXT Comments 9, Nov. 6, 2019 (stating that complaints of inadequate documentation ''plainly [do] not describe the kind of documentation that CSXT provides''); UP Comments 2, Nov. 6, 2019 (asserting that rail users already have access to ''the applicable minimum data requirements''); KCS Comments 6, Nov. 6, 2019 (requesting exclusion from the rule, in part, because ''KCS already provides accurate information with few disputes'').)

[14] Class I carriers also argue that the information would be best provided on their online platforms rather than on or with invoices, and that they already provide much of the information on such platforms. This argument is discussed below under the ''Alternative Visibility Platforms'' heading.

(CSXT Comments 5, June 5, 2020; NSR Reply 2, July 6, 2020.)

In their replies, many rail users counter that they are unable to effectively review and understand the demurrage invoices they receive from Class I carriers because the carriers either provide limited information or do not format the information in ways that enable efficient access and auditing.[15] ISRI acknowledges that minimum information requirements may increase costs for carriers but contends that rail users currently ''bear the costs and burdens associated with overtime and additional staffing needed to verify the accuracy of the invoices.'' (ISRI Reply 10–11, Dec. 6, 2019; *see also* WCTL & SEC Reply 9, Dec. 6, 2019 (arguing that carriers ''have effectively shifted the time and costs for reviewing invoices to shippers'').)

With respect to Class I carriers' concerns about increased litigation over technical issues, joint commenters (ACC, CRA, TCI, and TFI)[16] assert that rail users will not be inclined to dispute appropriate demurrage charges over technical issues since demurrage disputes are costly. (Joint Reply (ACC, CRA, TCI, & TFI) 13, July 6, 2020.) In addition, Dow argues that to the extent Class I carriers face more demurrage claims, those claims are likely to be valid for charges that previously went undetected. (Dow Reply 5, July 6, 2020.)

Several rail users counter CSXT's and CN's argument that minimum information requirements would constitute a return to the ICC's former demurrage rules by arguing, among other things, that unlike the former ICC rules, the Board's proposal would have little, if any, impact on the day-to-day operations of railroads because it would not impose timing requirements, content-organization requirements, or recordkeeping or notification methods. (Joint Reply (ACC, CRA, TFI, & NITL) 7–8, Dec. 6, 2019; *see also* ISRI Reply 12–13, Dec. 6, 2019 (arguing that the Board's proposal is less stringent than the rules the ICC removed); AM Reply 4, Dec. 6, 2019 (asserting that the minimum information requirements ''would not be 're-regulatory' '').)

Additionally, joint commenters (ACC, CRA, TCI, and TFI) and Dow dismiss CP's argument that minimum information requirements would discourage rail users from taking steps to avoid demurrage charges, asserting that rail users would not choose to incur the time and expense of challenging demurrage charges over preventing them in the first place. (Joint Reply (ACC, CRA, TCI, & TFI) 7, July 6, 2020; Dow Reply 5, July 6, 2020.) Joint commenters (ACC, CRA, TCI, and TFI) and NGFA strongly object to carriers' calls for an alternative performance-based standard because they argue it would allow carriers to exclusively determine the information rail users need to assess the validity of demurrage charges and permit carriers to present the information in formats that would limit rail users' ability to use the information to verify demurrage charges. (Joint Reply (ACC, CRA, TCI, & TFI) 14–15, July 6, 2020; NGFA Reply 12, July 6, 2020.)

The Board finds ample support in the record for adoption of minimum information requirements for demurrage invoices. The Board received many comments in this proceeding[17] and in *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. EP 754,[18] from rail users asserting that carriers either do not provide sufficient information or do not present the information in a format that allows rail users to effectively verify demurrage charges. The Board is particularly concerned about rail users' assertions that even with significant time and resources devoted to reviewing demurrage invoices, they find erroneous charges overly difficult to detect under carriers' present invoicing practices. (*See* Dow Reply 2–3, Dec. 6, 2019; Joint Reply (ACC, CRA, TFI, & NITL) 5–6, Dec. 6, 2019; ISRI Reply 10–11, Dec. 6, 2019.) While it may be true that certain Class I carriers provide more information, or more accessible information, than others, the Board finds that the comments from a diverse array of shippers served by different carriers demonstrate a widespread issue that justifies the imposition of a uniform set of minimum requirements for all Class I carriers. Because CN's proposed flexible ''performance-based'' alternative standard lacks objective criteria, Class I carriers would be responsible for determining the amount of information sufficient for demurrage invoices in a manner that would likely continue to result in varied practices, some of which may not provide rail users with information sufficient for them to readily assess the validity of demurrage charges. Likewise, CP's argument that market pressure will encourage carriers to provide better information on demurrage invoices is also unpersuasive because, if the argument were correct, demurrage invoices would already be more complete and informative than they are, and this proceeding would not have been necessary in the first place.[19]

Regarding CN's and CSXT's concern that minimum information requirements will lead to increased demurrage litigation because rail users will challenge invoices based upon technical issues unrelated to the validity of demurrage charges, the Board clarifies here that a carrier's failure to comply with the minimum information requirements on a particular invoice does not, by itself, establish that the invoice is invalid. Rather, the Board intends for the final rule to reduce unnecessary litigation by providing rail users with information that enables them to readily assess the validity of demurrage charges and determine when to dispute or accept responsibly for them. Indeed, rail users describe demurrage litigation as a complicated and time-consuming process that they would prefer not to undertake. The Board understands that carriers may make occasional invoicing errors and does not expect that an error would conclusively invalidate an entire demurrage invoice. The question of whether specific demurrage charges are lawful depends on an array of fact-specific factors (including, for example, documentation supporting the charges) that would need to be determined in the context of an individual dispute. Nevertheless, the Board has made clear that transparency and mutual accountability in the billing process are ''important factors'' in the establishment of reasonable demurrage charges. *Pol'y Statement on Demurrage & Accessorial Rules & Charges* (*Pol'y Statement*), EP

[15] (*See, e.g.,* Dow Reply 1, 3–6, Dec. 6, 2019; Joint Reply (ACC, CRA, TFI, & NITL) 5–6, Dec. 6, 2019; Kinder Morgan Reply 9, Dec. 6, 2019; WCTL & SEC Reply 5, Dec. 6, 2019; ISRI Reply 10, Dec. 6, 2019; NGFA Reply 5–6, July 6, 2020; *see also* Dow Comments 3, Nov. 6, 2019; IARW Comments 2, Nov. 6, 2019.)

[16] The Board received two sets of joint comments in this proceeding. The first group, composed of ACC, CRA, TFI, and NITL, filed reply comments on December 6, 2019. The second group, composed of ACC, CRA, TCI, and TFI, filed comments on June 5, 2020, and reply comments on July 6, 2020.

[17] (*See, e.g.,* Dow Comments 3, Nov. 6, 2019; IARW Comments 2, Nov. 6, 2019; Dow Reply 1, 3–6, Dec. 6, 2019; Joint Reply (ACC, CRA, TFI, & NITL) 5–6, Dec. 6, 2019; Kinder Morgan Reply 9, Dec. 6, 2019; WCTL & SEC Reply 5, Dec. 6, 2019; ISRI Reply 10, Dec. 6, 2019; NGFA Reply 5–6, July 6, 2020.)

[18] *See NPRM,* EP 759, slip op. at 5–6 (providing overview of comments received in Docket No. EP 754 related to the adequacy of demurrage invoices).

[19] Similarly, the existing case-by-case formal and informal adjudicatory approach has not ensured that rail users generally have easy access to the kind of information needed to readily assess Class I carrier demurrage charges. Rather, the record establishes that access to information varies a great deal depending on each carrier's program and practices. (*See* PCA Comments 2, June 5, 2020; Dow Reply 3–6, Dec. 6, 2019; NGFA Reply 4, July 6, 2020.)

757, slip op. at 15 (STB served Apr. 30, 2020). Although a carrier's failure to comply with the minimum invoicing requirements to be set forth at section 1333.4 would not be conclusive in litigation regarding a particular demurrage invoice, such noncompliance should be taken into account under 49 U.S.C. 10702 and 10746, along with all other relevant evidence, in determining the reasonableness and enforceability of demurrage charges.[20]

Contrary to carriers' arguments, the final rule does not contradict Board precedent, the RTP, or the purpose of demurrage. First, the ICC's decision in *Maintenance of Records,* 367 I.C.C. 145 (1982), cited by CSXT and CN, does not prevent the Board from adopting minimum information requirements here. As an initial matter, the Board may modify its rules as long as its actions are rational and fully explained.[21] *Maintenance of Records* itself was a modification based largely on changes in carrier practices due to technological advances. There, the ICC determined that certain recordkeeping requirements, such as those requiring carriers to maintain separate records for each open station, prepare daily car reports, and forward the reports daily to recordkeeping offices were unnecessary because computers could retain the data at a central location in a comparably efficient and less expensive way. *Maintenance of Records,* 367 I.C.C. at 146. As one rail user points out, however, present rail industry practices and technology are very different than they were when the ICC decided *Maintenance of Records* in 1982. (ISRI Reply 11–12, Dec. 6, 2019.) Moreover, as the Board observed, carriers use the minimum information in the ordinary course of business today and some carriers already provide certain demurrage information to rail users on online platforms. *See NPRM,* EP 759, slip op. at 10; *SNPRM,* EP 759, slip op. at 4. Unlike the more prescriptive rules that predated *Maintenance of Records,* the Board's final rule in this proceeding gives Class I carriers the flexibility to invoice in the format of their choosing, including electronic options, so long as they include the minimum information requirements on or with the invoices and provide machine-readable access to the minimum information. Accordingly, the final rule does not, as CSXT argues, ''turn the clock back to long-rejected policies.'' (CSXT Comments 3, Nov. 6, 2019.)

The Board also finds that the final rule adopted here is consistent with the provision of the RTP at section 10101(2), which focuses on minimizing the need for Federal regulatory control and ensuring expeditious Board decisions when required. The record in this proceeding and in *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. EP 754, supports the conclusion that limited and focused regulation would help parties resolve future demurrage disputes more efficiently and effectively without the need for costly and time-consuming litigation. Additionally, to the extent that parties may need to litigate demurrage disputes in the future, the minimum information requirements adopted here will facilitate expeditious handling and resolution of those disputes, consistent with section 10101(2), (15). Furthermore, by ensuring that rail users have access to sufficient information to understand demurrage charges, the final rule serves important goals of the RTP to meet the needs of the public and for carriers to remain competitive with other transportation modes. *See* section 10101(4).

The Board rejects CP's argument that the rule contradicts the purpose of demurrage because it encourages rail users to challenge demurrage invoices rather than avoid demurrage charges in the first instance. The final rule incentivizes efficient asset utilization (and helps to ensure that carriers are compensated when rail cars are unduly detained) by requiring demurrage invoices to contain sufficient information to allow rail users to verify the validity of those charges and modify their own behavior when necessary to avoid future demurrage charges. *See NPRM,* EP 759, slip op. at 10; *SNPRM,* EP 759, slip op. at 7. The final rule does not encourage rail users to challenge appropriately assessed demurrage charges. Rather, it ensures that rail users are provided sufficient information about the charges to enable them to take action to avoid future charges and, indeed, rail users have confirmed that incurring the time and expense of demurrage litigation, rather than avoiding the charges in the first place, would not serve their interests. (*See* Joint Reply (ACC, CRA, TCI, & TFI) 7, July 6, 2020; Dow Reply 5, July 6, 2020.)

Lastly, the Board is not persuaded by the argument that minimum information requirements will stifle innovation. To the contrary, the final rule allows Class I carriers to choose how to invoice rail users, as long as they include the minimum information required on or with the invoices and provide machine-readable access to the minimum information.[22]

Therefore, as discussed below, the Board will adopt the minimum information requirements proposed in the *NPRM* and the *SNPRM.*

2. NPRM Proposed Information

Rail users generally support the minimum information requirements proposed in the *NPRM,* asserting that the information would help rail users audit invoices more effectively and learn what actions to take to avoid future demurrage charges. (*See, e.g.,* TFI Comments 3–4, Nov. 6, 2019; NACD Comments 2–3, Nov. 6, 2019; NITL Comments 9, Nov. 6, 2019.) Additionally, two rail users submit requests for clarification. First, ISRI asks the Board to clarify its proposal that Class I carriers be required to provide ''[t]he number of credits and debits attributable to each car (if applicable).'' (ISRI Comments 4–5, June 5, 2020.) Specifically, ISRI asks whether this proposal would require carriers to ''determine in advance for each car included in an invoice whether credits apply'' or whether rail users would need to apply for credits that would appear on future invoices, if granted. (*Id.* at 5.) ISRI requests that, if the Board did not intend to require the former, then the Board mandate that credits be carried over for 30 to 60 days before expiring. (*Id.*) Second, ILTA asks the Board to change the ''and/or'' language in the requirement that Class I carriers provide ''the identity of the shipper, consignee, and/or care-of party, as applicable'' to ''and'' so that Class I carriers are required to identify all applicable parties. (ILTA Comments 4, June 4, 2020.) Class I carriers do not respond to ISRI's or ILTA's requests for clarification.

Several Class I carriers state that they already provide rail users with most (or all) of the information proposed in the *NPRM,* either on invoices or their online

[20] Noncompliance could also be the subject of complaints and/or investigation under 49 U.S.C. 11701 and 11704, and the nature of the invoicing error would likely be a consideration in any such proceeding (*e.g.,* a one-time inaccuracy in the date that a waybill was created is not the same as general noncompliance or frequent or systemic errors).

[21] *See Nat'l Cable & Telecommc'ns Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 981–82, 1001 (2005) (finding that an agency ''is free within the limits of reasoned interpretation to change course if it adequately justifies the change''); *Chevron, U.S.A., Inc.* v. *Nat. Res. Def. Council, Inc.,* 467 U.S. 837, 863 (1984) (''An initial agency interpretation is not instantly carved in stone.'').

[22] The Board notes that the information requirements adopted here are minimum, not maximum, requirements. To the extent that Class I carriers, responding to the competitive market pressures suggested by CP or for other reasons, wish to provide rail users with information not specified in the minimum information requirements in the format of their choosing, the Board encourages them to do so.

platforms.[23] However, KCS and CN express concerns that handling carriers may not always receive complete waybill information from connecting carriers and, therefore, may not have access to the date the waybill was created; the identity of the shipper, consignee, and/or care-of party, as applicable (if not the invoiced party); and the origin station and state of the shipment. (KCS Comments 5, Nov. 6, 2019; CN Comments 7–8, June 5, 2020.) KCS states that it is ''willing to work with other carriers to try to obtain this information on a regular basis in the future, but currently does not always have all of the information the Board's rules would require.'' (KCS Comments 5, Nov. 6, 2019.) CN asks the Board to specify that ''a railroad is only required to provide information that is available to it.'' (CN Comments 7, June 5, 2020.)

NGFA objects to CN's proposal. NGFA argues that the proposal would create an incentive for carriers to avoid collecting information needed by rail users so that they would not have to provide the information on demurrage invoices. (NGFA Reply 13, July 6, 2020.)

The Board finds that adopting the minimum information requirements proposed in the *NPRM* will ensure that rail users have access to information that will help them readily assess the validity of demurrage charges, properly allocate demurrage responsibility, and modify their own behavior, as appropriate, to minimize future demurrage charges. Such actions will help provide for the efficient use of rail assets, consistent with section 10746. Accordingly, the Board will adopt the minimum information requirements proposed in the *NPRM* with the following clarifications.

To address ISRI's concern that the Board's proposal would require rail users to apply for credits, the Board clarifies that the final rule does not create an obligation for rail users to apply for credits. Rather, the Board intends that Class I carriers will list the number of credits and debits attributable to each car on the invoice (if applicable).[24] Furthermore, the Board declines ILTA's request to change the ''and/or'' language in the requirement that Class I carriers provide ''the identity of the shipper, consignee, and/or care-of party, as applicable'' because the ''as applicable'' language already conveys that Class I carriers should identify all applicable parties on the invoice.

In response to KCS's and CN's concerns about access to select waybill information, the Board clarifies that Class I carriers are not required to provide rail users with information to which the Class I carriers do not have access in the normal course of business from their partner carriers. Although CN and KCS do not quantify the degree to which they may lack information from other rail carriers in a movement, the Board would not expect this situation to occur frequently because Class I carriers have many reasons for collecting the minimum information required by the final rule, including for their own performance metrics and to substantiate demurrage charges should they be challenged, and carriers share information in the ordinary course of business during interchange. Where a carrier cannot provide information required by the rule because it has not received the information from another carrier, the invoicing carrier should make a note to that effect on the invoice. In response to NGFA's concern, the Board observes that it expects that this situation would arise infrequently, and the Board will consider further regulatory action if the situation is becoming widespread.

3. Billing Cycle

In the *SNPRM,* the Board invited comment on a proposal to require Class I carriers to include on or with demurrage invoices the billing cycle covered by the invoice. *SNPRM,* EP 759, slip op. at 5. Many rail users support the inclusion of the billing cycle, asserting that it would make invoices easier to understand and validate.[25] Dow argues that this information would be particularly useful when demurrage events span more than one invoicing period because some carriers bill demurrage monthly by the date it accrues rather than by the date the demurrage event ends. (Dow Comments 2, June 5, 2020.) Dow also contends that billing cycle information would simplify research into invoice events because many of the carriers' online platforms make demurrage event data available only by billing cycle. (*Id.*)

CN opposes this requirement, arguing that there is no basis in the record for it. (CN Comments 10, June 5, 2020.) NSR does not object, but requests additional clarity about whether its current process for providing billing cycle information[26] would satisfy the Board's proposed requirement. (NSR Comments 7, June 5, 2020.) In addition, UP, CN, CSXT, and BNSF state that they currently provide billing cycle information on their invoices or online platforms. (UP Comments, V.S. Prauner 2, June 5, 2020; CN Comments 10, June 5, 2020; CSXT Comments 3, June 5, 2020; BNSF Comments 2–3, June 5, 2020.)

The Board will include a billing cycle requirement in the final rule. The billing cycle information, which is a basic feature on recurring invoices, would help rail users verify demurrage charges that span multiple invoicing periods and compare invoiced charges to the demurrage information available on Class I carriers' online platforms. (Dow Comments 2, June 5, 2020.) Although CN opposes the addition, the record establishes that such information would assist rail users in better understanding their invoices; most carriers indicate that they already provide this basic information; and no carriers indicate that this requirement would be burdensome. In response to NSR's request, the Board clarifies here that providing rail users with the dates of the invoicing period over which rail cars incurred demurrage would be sufficient to satisfy the billing cycle requirement.

4. Original ETA and Interchange Date and Time

As discussed in the *SNPRM,* several commenters identified the original ETA and, if applicable, the date and time that cars are received at interchange, as information that would give rail users greater visibility into how carrier-caused bunching[27] and other delays may affect demurrage charges. *See SNPRM,* EP 759, slip op. at 5–8 (describing comments received in response to the *NPRM* related to the original ETA and the date

[23] (*See* KCS Comments 5, Nov. 6, 2019; CSXT Comments 5, Nov. 6, 2019; UP Comments 2, Nov. 6, 2019; CP Comments, V.S. Melo 2, Nov. 6, 2019; CN Comments 4, Nov. 6, 2019; NSR Reply 1, Dec. 6, 2019; *see also* NSR Comments 1, Nov. 6, 2019 (stating that it does not oppose the specific categories of information that the Board proposed in the *NPRM*).)

[24] The Board also clarifies that the final rule does not prevent rail users from seeking additional credits that were not discernable at the time the invoice was issued.

[25] (*See* ILTA Comments 2, June 4, 2020; AFPM Comments 5, June 5, 2020; IWLA Comments 2; June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 2, June 5, 2020; NACD Comments 3, June 5, 2020; NITL Comments 3, June 5, 2020; PCA Comments 2, June 5, 2020; FRCA Comments 1, June 5, 2020; ISRI Comments 3, June 5, 2020.)

[26] NSR states that ''[e]ach invoice indicates the time period during which the car incurred demurrage charges. If a railcar incurs charges over multiple months, the customer will be charged when the demurrage cycle has ended. The railcar is summarized on a monthly invoice with other equipment during the billing period. That single invoice will reflect the billing cycle for that month. Additionally, the customer will receive information showing the full range of dates where that particular car incurred charges.'' (NSR Comments 7, June 5, 2020.)

[27] The Board has described bunching as ''rail car deliveries that are not reasonably timed or spaced.'' *See Demurrage Liability,* EP 707, slip op. at 23.

and time that cars are received at interchange). In response, the Board invited additional comment on revisions to proposed section 1333.4 that would require Class I carriers to provide on or with their demurrage invoices (1) the original ETA of each car (as established by the invoicing carrier); and (2) the date and time that each car was received at interchange, if applicable. *Id.* For the former, the Board invited comment on how to define ''original ETA,'' [28] and whether the original ETA may differ depending on whether the rail car is loaded or empty. *Id.* at 7 n.12. For the latter, the Board invited comment on whether the requirement that Class I carriers provide the date and time that cars are received at interchange, if applicable, should be limited to the last interchange with the invoicing carrier. *Id.* at 7. Lastly, the Board invited comment on whether Class I carriers should be required to provide these items to the invoiced party upon reasonable request (rather than on or with every invoice) and, if so, what would constitute a reasonable request. *Id.* at 7–8.

Original ETA. In response to the *SNPRM,* rail users express additional support for an original ETA requirement. Several rail users contend that by comparing the original ETA to the car's arrival time, rail users will be better able to identify carrier-caused bunching, verify credits when applicable, and know when to dispute demurrage charges.[29] AFPM also contends that this requirement would encourage carriers to apply increased scrutiny to their demurrage invoices before sending them. (AFPM Comments 6, June 5, 2020.) Although several rail users acknowledge that they would need to consider other facts and circumstances besides the original ETA to determine whether demurrage charges arise from carrier-caused bunching, they argue that the original ETA would help them determine when to conduct further inquiries with the carriers. (Dow Reply 3–4, July 6, 2020; Joint Reply (ACC, CRA, TCI, & TFI) 3–4, July 6, 2020; NITL Reply 6, July 6, 2020.) Dow and joint commenters (ACC, CRA, TCI, and TFI) argue that the original ETA and date and time of interchange are the only metrics that allow rail users to identify demurrage charges that may arise from carrier-caused bunching and other delays beyond rail users' reasonable control. (Dow Reply 1, July 6, 2020; Joint Reply (ACC, CRA, TCI, & TFI) 3, July 6, 2020.) Additionally, Dow contends that the original ETA would help inform transit variability so that rail users can ''fine tune [their] shipments and the number of cars at a destination to better prevent demurrage.'' (Dow Reply 4, July 6, 2020.)

BNSF, CP, CN, UP, NSR, and CSXT oppose an original ETA requirement, although they state that they already provide rail users with ETA information.[30] BNSF, CN, and UP argue that ETAs are most useful when they are consistently updated with current information to account for the variability of traffic movements across the rail network. (BNSF Comments 16, June 5, 2020; CN Comments 8–9, June 5, 2020; UP Comments, V.S. Prauner 2, June 5, 2020.) BNSF asserts that rail users may ''keep a historical record of the original ETA and any updates as a car moves across the network, but that original ETA is not meaningful to the customer in its demurrage planning'' because ''actual events'' are more important than ''historical estimates.'' (BNSF Comments 16–17, June 5, 2020.)

BNSF and UP also contend that original ETAs do not give rail users meaningful information about the causes of demurrage.[31] CN asserts that the relevant data for bunching is not the original ETA but rather ''the actual arrival time of shipments, and whether the arrival times for all of a receiver's inbound traffic are clustered in a way that it could prevent the receiver from loading or unloading the cars without incurring demurrage.'' (CN Comments 9, June 5, 2020.) UP also argues that ''[t]he only way to identify whether and why bunching occurred is through the railroad and customer working cooperatively.'' (UP Comments 4, June 5, 2020.)

Additionally, Class I carriers assert that an original ETA requirement would create confusion about carriers' service obligations. CP and UP emphasize that that they do not guarantee specific transit times. (CP Comments 5, June 5, 2020; UP Comments 4, June 5, 2020.) Likewise, NSR and BNSF argue that a carrier's common carrier obligation does not require them to adhere to ETAs. (NSR Comments 7–8, June 5, 2020; BNSF Reply 2–3, July 6, 2020.) BNSF also contends that the Board has recognized in demurrage cases that ''transit delays inherent in rail operations do not, on their own, excuse a shipper from demurrage.'' (BNSF Reply 3–4, July 6, 2020.) Furthermore, CN argues that the Board's proposal could have unintended consequences, such as disrupting private service agreements between carriers and rail users by suggesting that ''failure to deliver by an original ETA could be indicative of service failure'' and incentivizing carriers to include a ''sizeable cushion'' rather than the most accurate ETA forecasts to avoid potential demurrage challenges. (CN Comments 9–10, June 5, 2020; *see also* BNSF Reply 5, July 6, 2020 (asserting that carriers may change the way they estimate ETAs to avoid litigation with rail users).)

Rail users respond by arguing that an original ETA requirement would not cause the outcomes that carriers describe. Several rail users contend that an original ETA requirement would not create transit-time guarantees since rail users know, via carriers' contracts and tariffs, that carriers do not guarantee transit times. (Dow Reply 4, July 6, 2020; ISRI Reply 4, July 6, 2020; Joint Reply (ACC, CRA, TCI, & TFI) 7, July 6, 2020; NITL Reply 5, July 6, 2020.) Dow and joint commenters (ACC, CRA, TCI, and TFI) suggest that the Board could clarify in the final rule that the original ETA is required for demurrage purposes only and not to create a transit-time guarantee. (Dow Reply 4–5, July 6, 2020; Joint Reply (ACC, CRA, TCI, & TFI) 7, July 6, 2020.) However, joint commenters (ACC, CRA, TCI, and TFI) also argue that ''[i]f the railroad caused the shipment to arrive late, even by a day, it should not be entitled to penalize the rail user with demurrage.'' (Joint Reply (ACC, CRA, TCI, & TFI) 7, July 6, 2020.)

Dow and joint commenters (ACC, CRA, TCI, and TFI) further argue that, for private cars, original ETA should be defined as ''the estimated date and time of constructive placement as determined by the delivering carrier immediately upon proper release of a car by the shipper to the rail carrier (for single-line

[28] The Board sought comment on whether, for example, original ETA should be generated promptly following interchange or release of shipment to the invoicing carrier and be based on the first movement of the invoicing carrier. *SNPRM,* EP 759, slip op. at 7 n.12.

[29] (*See* ILTA Comments 2, June 4, 2020; AFPM Comments 6, June 5, 2020; FRCA Comments 1, June 5, 2020; ISRI Comments 4, June 5, 2020; IWLA Comments 2, June 5, 2020; NACD Comments 4, June 5, 2020; NITL Comments 3–4; June 5, 2020; PCA Comments 2, June 5, 2020; Dow Reply 3, July 6, 2020; NGFA Reply 10, July 6, 2020.)

[30] (*See* BNSF Comments 16–17, June 5, 2020; NSR Comments 7, June 5, 2020; UP Comments 4, June 5, 2020; CP Comments 5, June 5, 2020; CSXT Comments 3, June 5, 2020; CN Reply 5, July 6, 2020.)

[31] (BNSF Comments 16–17, June 5, 2020 (arguing that ''[i]nnumerable circumstances could cause changes to the original ETA of a particular movement, including industry behavior at origin or destination (if cars must be held en route)''); UP Comments 4, June 5, 2020 (noting that rail cars could miss their estimated ETAs ''because a surplus of cars ordered by the customer caused congestion in a yard or multiple shippers sent cars to the same receiver facility and that facility's capacity was exceeded'').)

movements) or the carrier's receipt of a car in interchange (for joint-line movements)'' as ''determined under applicable AAR interchange rules.'' (Dow Comments 3, June 5, 2020; *see also* Joint Comments (ACC, CRA, TCI, & TFI) 4, June 5, 2020 (proposing a similar definition).) They contend that an original ETA must be estimated immediately upon the delivering carrier receiving control of the car because carrier-caused delays can occur at origins and interchanges. (Dow Comments 3, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 5, June 5, 2020; *see also* NGFA Reply 9, July 6, 2020 (expressing concerns that a rail car ''could sit idle at origin for days or a week or more due to missed pulls with the original trip plan never generated, creating bunching issues at the origin shipper that are not documented by the carrier'').) [32]

NSR states that it opposes a rule that would require carriers to develop an ETA immediately upon receipt of a car in interchange, as this would require ''the reconfiguration of [NSR's] trip plan software, an incredibly complicated reconfiguration that would take years to implement due to the legacy infrastructure.'' (NSR Reply 4–5, July 6, 2020.) CN opposes any definition that would require it to provide an ETA before a trip plan is created. (CN Reply 5, July 6, 2020.)

In the *SNPRM,* the Board invited comment on whether the original ETA may differ depending on whether the rail car is loaded or empty. *SNPRM,* EP 759, slip op. at 7. In response, joint commenters (ACC, CRA, TCI, and TFI) assert that different definitions are not necessary because carriers' demurrage rules generally apply the same calculation and constructive placement methods to all private cars. (Joint Comments (ACC, CRA, TCI, & TFI) 5, June 5, 2020.)

The Board is persuaded that the original ETA provides useful information to rail users for verifying credits, when applicable, and identifying delays that impact demurrage. Although not dispositive as to the cause of bunching, original ETAs will allow rail users to better understand whether there are delays in shipment beyond carriers' initial expectations and will lead to better communication between carriers and rail users about the causes of demurrage. Likewise, original ETAs may give rail users more insight into which demurrage charges to probe further to determine whether carrier-caused bunching is present. Furthermore, original ETAs will assist certain rail users in verifying credits because at least one Class I carrier issues credits based on rail cars that do not meet their original ETAs. (*See* NSR Reply 2–3, July 6, 2020.) Given these benefits and the fact that carriers already generate original ETAs in the ordinary course of business, inclusion of the original ETA as a minimum requirement is appropriate.

The Board rejects the argument that updated (or ''real-time'') ETAs render original ETAs less useful. The Board recognizes that updated ETAs help rail users account for transit variability and plan for rail cars' arrival; however, they may be less useful when rail users need to verify demurrage charges on invoices that may be issued weeks later. In contrast, allowing rail users to readily compare significant deviations between original ETAs and car arrivals once invoices are issued could lead to better information exchange about the causes of delay. BNSF states that rail users may record original ETAs and updates as needed from the information carriers provide on their online platforms. However, the Board finds it unreasonable to expect rail users to keep records of fluctuating ETAs for all rail cars to prepare for the possibility that some of those rail cars ultimately accrue demurrage. As discussed in the *NPRM,* minimum information requirements are intended to ensure that rail users do not need to undertake unreasonable efforts to gather information that can be provided by carriers in the first instance. *NPRM,* EP 759, slip op. at 10.

The Board agrees with the Class I carriers' assertion that rail cars may not be delivered by their original ETAs due to a variety of causes, including rail users' behavior, carrier-caused delays, or other variables. Accordingly, a missed original ETA would not—without more— establish that carrier-caused bunching (or any other event) occurred but rather would give rail users information about delays that may then prompt them to conduct further investigations or adjust their own conduct to better account for transit variabilities and avoid future demurrage charges. In any given case, additional facts and circumstances would need to be considered in determining whether demurrage charges arise from carrier-caused bunching. The fact-specific nature of bunching issues is precisely why the Board has determined that demurrage disputes pertaining to bunching are best addressed in individual cases. *See Demurrage Liability,* EP 707, slip op. at 23–24; *see also Pol'y Statement,* EP 757, slip op. at 11–12.

The Board recognizes Class I carriers' concern that rail users may misinterpret original ETAs as guaranteed transit times or as a service standard that would override private agreements between rail users and carriers, and clarifies here that that is not the purpose or effect of the original ETA requirement. The requirement to provide an original ETA established here obligates carriers only to provide rail users with this information on or with demurrage invoices; it does not constitute, or require carriers to provide, service guarantees. The requirement does not create a separate service standard for carriers. Finally, inclusion of an original ETA requirement in the final rule does not change the fact that the Board will determine whether demurrage charges are reasonable under section 10702 and comport with the statutory requirements specified in section 10746 in the context of case-specific facts and circumstances. Accordingly, the existence of the original ETA in the minimum information requirements does not establish whether a delay in shipment renders a demurrage charge unreasonable. (*See* Joint Reply (ACC, CRA, TCI, & TFI) 7, July 6, 2020.) [33]

With respect to CN's and BNSF's assertions that an original ETA requirement would incentivize carriers to cushion their ETA forecasts, the Board expects that Class I carriers have other motivations to give rail users accurate estimates about rail car arrivals, including to provide good customer service, improve their performance metrics,[34] and ensure that the rail network runs efficiently by

[32] In addition, ISRI requests that the Board require Class I carriers to provide ETAs for all cars listed in a pipeline report detailing the ''cars in the system for future deliveries,'' because ''[a]t least one Class I railroad that provides its customers with a pipeline report fails to consistently include an ETA for the cars listed.'' (ISRI Comments 4, June 5, 2020.) However, this proceeding focuses on the information that Class I carriers must provide on or with demurrage invoices and ISRI's request is beyond that scope.

[33] The Board rejects AFPM's suggestion that certain rail users who own or lease the cars they use should be allowed to charge carriers demurrage when they miss their original ETAs, as AFPM's request is beyond this scope of this proceeding, which focuses on the information that Class I carriers must provide on or with demurrage invoices. (AFPM Comments 2, June 5, 2020.)

[34] *See, e.g.,* UP Comments 3, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754 (stating that its on-time delivery rates were the best they had been in two years); NSR Comments 3, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754 (describing measures taken to improve on-time delivery performance); CSXT Comments 3, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754 (explaining that bunching issues had decreased with continued improvements to operating performance and resulting transit times).

giving rail users the best opportunity to plan for the efficient use of rail assets. Although it may be appropriate to make adjustments to ETAs based on real-time information, providing the most accurate estimates available is in the interest of both rail carriers and their customers.

The Board will adopt the definition of original ETA discussed in the *SNPRM,* which will require Class I carriers to generate ETAs promptly following interchange or release of shipment to the invoicing carrier based on the first movement of the invoicing carrier. *SNPRM,* EP 759, slip op. at 7. The Board declines to adopt the proposal to require carriers to generate ETAs ''immediately'' following interchange or release of shipment since the inclusion of the word ''promptly'' in the definition is sufficient to ensure that there is not undue delay at origin or interchange before ETAs are created for rail cars. The Board also expects that it would not be in Class I carriers' interests, from an efficiency standpoint, to hold rail cars at their yards without trip plans.[35]

Interchange Date and Time. Many rail users also support a requirement that Class I carriers provide the date and time that cars are received at interchange, asserting that such information would be useful in identifying upstream carrier-caused bunching.[36] ILTA argues that ''having the interchange information would allow rail users to calculate transit time on an upstream carrier's line and allow impacted users to credibly approach the upstream carrier to take responsibility for delays it may have caused.'' (ILTA Comments 2, June 4, 2020.) Dow asserts that it would use the date and time of interchange, along with the original ETA, to ''identify circumstances that may warrant a deeper inquiry into whether demurrage charges arise from carrier-caused bunching and delays beyond Dow's reasonable control.'' (Dow Reply 3–4, July 6, 2020.) NITL acknowledges that ''there can be multiple factors causing car delays that result in demurrage'' and argues that interchange information, along with original ETAs, ''would assist rail customers and railroads in their investigations of invoiced charges.'' (NITL Reply 6, July 6, 2020.)

Dow and joint commenters (ACC, CRA, TCI, and TFI) contend that Class I carriers should provide the date and time for every interchange. (Dow Comments 3, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 5, June 5, 2020.) ISRI and NITL state that information about all interchanges would be helpful but ask that, at a minimum, the Board require Class I carriers to provide information about the last interchange with the invoicing carrier. (ISRI Comments 6, June 5, 2020; NITL Comments 4, June 5, 2020.)

BNSF, CSXT, and NSR state that they provide rail users with the date and time of interchange on their online platforms. (BNSF Comments 18, June 5, 2020; CSXT Comments 3, June 5, 2020; NSR Comments 8, June 5, 2020.) However, BNSF argues that an invoice requirement ''would be counterproductive as it would create confusion over the relevance of such data and potentially encourage unnecessary disputes over appropriate demurrage charges.'' (BNSF Comments 16, 18, June 5, 2020.) BNSF, UP, and NSR assert that they do not use interchange information to calculate demurrage. (BNSF Comments 18, June 5, 2020; UP Comments 4, June 5, 2020; NSR Reply 2–3, July 6, 2020.) Additionally, NSR argues that this requirement, if adopted, should be limited to the last interchange since it ''has no visibility into the operations of its interchange partners, and does not have access to information regarding any trip plan or ETA that may have been generated upstream by other carriers.'' (NSR Comments 8, June 5, 2020.)

The Board will require Class I carriers to provide, on or with demurrage invoices, the date and time they received rail cars at interchange, if applicable. The Board finds that interchange information may assist rail users in identifying where delays occurred on joint-line movements, which would in turn allow rail users to know when to adjust their own conduct to account for upstream transit variabilities and conduct further inquiries when necessary. These further inquiries may be especially important when demurrage disputes involve concerns about upstream bunching. *See Pol'y Statement,* EP 757, slip op. at 11–12. As with the original ETA, however, the Board clarifies that the date and time of interchange does not establish whether upstream bunching occurred and, instead, must be considered in the context of other relevant facts and circumstances.

The Board will limit this requirement to the last interchange with the invoicing carrier. In the *SNPRM,* the Board stated that Class I carriers would likely have access to the date and time of interchange because this information is used in the ordinary course of business to track car movement and place cars. *SNPRM,* EP 759, slip op. at 7. According to NSR, Class I carriers do not have access to information about upstream interchanges with other carriers in the ordinary course of business; accordingly, the Board will limit this requirement to the information that Class I carriers can provide without the potential burden of having to consult with other carriers.

Reasonable Request Proposal. Rail users and rail carriers that commented on the Board's alternative proposal to require carriers to provide original ETA and date and time of interchange only upon reasonable request oppose the proposal. Several rail users argue that a reasonable request provision would be burdensome and cause unnecessary delays in collecting information.[37] CSXT and UP also contend that a reasonable request provision is unnecessary because rail users can access the original ETA and date and time of interchange on demand through their online platforms. (CSXT Comments 3, June 5, 2020; UP Comments 5, June 5, 2020.) The Board will not include a reasonable request provision in the final rule because the comments offer no indication that it would benefit rail users or Class I carriers.

5. Ordered-In Date and Time

Rail users identified the date and time that cars are ordered into a rail user's facility as information that would help them validate invoices more efficiently. In response, the Board invited comment in the *SNPRM* on a modification to proposed section 1333.4 that would require Class I carriers to provide the ordered-in date and time on or with demurrage invoices. *SNPRM,* EP 759, slip op. at 8–9.

Rail users replied that access to the ordered-in date and time would allow them to verify demurrage invoices more efficiently by comparing carriers' information to their own records and determining the basis for carriers' demurrage assessments, understand how their own actions impacted the demurrage charges, and calculate credits, if applicable.[38] Dow also

[35] Because no commenter indicates that the original ETA would differ depending on whether a rail car is loaded or empty, the Board will make no such distinction in the final rule.

[36] (*See* AFPM Comments 6, June 5, 2020; FRCA Comments 1, June 5, 2020; ISRI Comments 5, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 5, June 5, 2020; NACD Comments 4, June 5, 2020; NITL Comments 4–5, June 5, 2020; PCA Comments 2, June 5, 2020.)

[37] (*See* Dow Comments 5, June 5, 2020; AFPM Comments 6, June 5, 2020; ISRI Comments 6–7, June 5, 2020; NGFA Comments 6, June 5, 2020; NITL Comments 5, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 7, June 5, 2020.)

[38] (*See* ILTA Comments 3–4, June 4, 2020; IWLA Comments 2, June 5, 2020; NACD Comments 4,

Continued

emphasizes that this information is a ''crucial demurrage metric because demurrage stops accruing at that time'' and reiterates that including this information is consistent with the Board's proposal to require the date and time of constructive placement, at which the accrual of demurrage starts. (Dow Comments 5, June 5, 2020.) Joint commenters (ACC, CRA, TCI, and TFI) support this requirement but argue that carriers should be required to provide ''the actual date and time the carrier receives the order to place the cars at the receiving facility'' since at least one carrier ''appears to purposefully record a different ordered-in date and time in its system.'' (Joint Comments (ACC, CRA, TCI, & TFI) 7, June 5, 2020.)

In response, CP argues that the Board should not require carriers to provide the date and time the rail user places the order in all circumstances because this information would not always impact the demurrage calculation and could cause administrative confusion. (CP Reply 4–5, July 6, 2020.) For example, CP explains that it allows rail users that operate closed-gate facilities to order in cars while the cars are en route, for which CP records the date that the cars arrive at the serving yard and are available for placement. (*Id.* at 3.) In this scenario, CP states that the order for placement upon arrival keeps the demurrage clock from starting. (*Id.* at 3–4.) Furthermore, CP states that it allows certain rail users to order in cars for the current day and up to three days in the future and, in these circumstances, records the date selected for car placement because this date stops the accrual of demurrage. (*Id.* at 4.) Likewise, NSR states that it provides rail users with the ''effective order date'' on invoices, which is the date ''selected by the customer from their service schedule'' and ''represents the date the railcar is to be delivered.'' (NSR Comments 8, June 5, 2020.) NSR states that the ordered-in date and time that a rail user enters online is not used for demurrage purposes but is provided in an order confirmation email. (*Id.*)

CN states that it already provides rail users with the ordered-in date and time but objects to the inclusion of this requirement because rail users would already have this information in their own records. (CN Comments 11, June 5, 2020.) CN also argues that the disputes the Board references in the *SNPRM*[39] would not be resolved by access to ordered-in date and time information. (*Id.*) CSXT, UP, and BNSF also indicate that, if applicable, they provide the ordered-in date and time on their invoices or online platforms. (CSXT Comments 3, June 5, 2020; UP Comments, V.S. Prauner 2, June 5, 2020; BNSF Comments 2–3, June 5, 2020.)

The comments received in response to the *SNPRM* do not change the Board's view that the ordered-in date and time, which is essential to the calculation of demurrage at closed-gate facilities, would be valuable on or with demurrage invoices for both demurrage accrual and verification purposes. *See SNPRM,* EP 759, slip op. at 8. Although, as CN points out, rail users may record the ordered-in date and time themselves, the Board finds that documentation of the ordered-in date and time, which would stop the accrual of demurrage, would be very useful when viewed along with the other information on demurrage invoices, including the event that starts demurrage accrual and the resulting credits and charges, as applicable. Additionally, as rail users explain, having access to the ordered-in date and time recorded by Class I carriers may help rail users identify discrepancies between the carrier's records and the rail user's records. CN argues that the issues stakeholders raised in comments and testimony in *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. EP 754, which the Board referenced in the *SNPRM,* EP 759, slip op. at 9, would not be resolved through the ordered-in date and time, but the Board did not state that the ordered-in date and time would be dispositive in these or any other specific disputes. Rather, as the Board stated in the *SNPRM,* the ordered-in date and time requirement is intended to give rail users easier access to information for their own verification purposes. *Id.* Furthermore, the comments from six Class I carriers stating that they currently provide rail users with the ordered-in date and time confirm that providing this information would not be overly burdensome for Class I carriers.

Since Class I carriers' comments demonstrate that the date and time the carrier receives the order from the rail user to place the cars is not used to calculate demurrage in all circumstances, the Board will not define the ordered-in date and time requirement as narrowly as joint commenters request. (*See* Joint Comments (ACC, CRA, TCI, & TFI) 7, June 5, 2020.) Rather, the ordered-in date and time will mean the date and time at which demurrage first stops accruing with respect to a closed-gate facility. Depending on the carrier's individual system, this may be the date and time the carrier receives the order to place cars from the rail user, the date selected by the rail user for car placement, or another similar metric.[40]

6. Other Information Requirements Proposed by Rail Users

In addition to the proposals discussed above, rail users identify an array of other information that they contend would be useful on demurrage invoices.[41] In response, CSXT states its general opposition to the additional items. (CSXT Reply 2, Dec. 6, 2019.) Moreover, CSXT, NSR, and UP argue that online platforms are the best way to provide an array of information. (*See* CSXT Reply 4, Dec. 6, 2019 (stating that CSXT already provides almost all of the requested information ''through one of its various platforms''); NSR Reply 1, Dec. 6, 2019 (stating that NSR provides most of the requested information online); UP Reply 3, Dec. 6, 2019 (arguing that an online platform can meet rail users' needs in a ''customized, tailored way'').)

The Board declines to incorporate additional items beyond those discussed in the *NPRM* and *SNPRM* into the final

June 5, 2020; Dow Comments 5, June 5, 2020; ISRI Comments 7, June 5, 2020; NITL Comments 5–6, June 5, 2020; AFPM Comments 7–8, June 5, 2020.)

[39] *See SNPRM,* EP 759, slip op. at 9 (providing examples of comments and testimony received in *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. 754, describing issues with demurrage accruing on rail cars that had been ordered into a facility).

[40] As CP indicates, there are scenarios when an ordered-in date and time does not have a bearing on demurrage. For example, when a rail user orders in a car when the car is still en route to CP's serving yard, CP states that it records the ordered-in date and time based on when the car arrives in the serving yard rather than when the rail user places the order. (CP Reply 3, July 6, 2020.) Because CP indicates that the demurrage clock would not start in such a scenario, the Board would not expect such instances to result in a demurrage charge.

[41] This information includes: Dwell time, (ACC Comments 2, Nov. 6, 2019; AFPM Comments 6–7, Nov. 6, 2019); railroad service events or, alternatively, those events that result in the issuance of credits, (AFPM Comments 7, Nov. 6, 2019; ISRI Comments 10, Nov. 6, 2019); car inventory at open gate facilities, (ISRI Comments 10, Nov. 6, 2019); destination station, state of shipment, and information to confirm that a carrier has not issued overlapping charges, (AFPM Comments 6–7, Nov. 6, 2019); date and time of notification to the rail user if different than constructive placement, car type and ownership, the standard transportation commodity code of the commodity shipped, payment information, and station of constructive placement, (CPC Comments 4–5, Nov. 6, 2019); location, date, and time a train is ''laid down,'' sequence number, monthly summary listing all demurrage charges, and reasons for the charges, (WCTL & SEC Comments 11–12, Nov. 6, 2019); date and time that a car order is placed with the carrier, information about whether cars were spotted or pulled within the relevant service window, and any missed switch dates and scheduled non-switch dates, (NGFA Comments 5–6, June 5, 2020); the time the waybill was created, ''[r]ailcar origin railroad pick-up date/time,'' and original estimated transit time of each railcar, (ILTA Comments 3–4, June 5, 2020).

rule at this time. The Board's minimum information requirements are not intended to encompass every piece of information that may be useful to rail users or that may bear on demurrage. Rather, the minimum information adopted in the final rule represents what the Board has determined will have the greatest impact on rail users' ability to validate demurrage charges, properly allocate demurrage responsibility, and modify their behavior if their own actions led to the demurrage charges. Many of the other items suggested by rail users would provide additional detail about the movement of rail cars but are not as central to an initial assessment of demurrage charges as the minimum information requirements adopted here. Moreover, in adjudicated cases, parties may seek discovery to gain further information about the causes of delays and demurrage. Several Class I carriers indicate that they provide, in some format, much of the information rail users identified in their comments, and the Board encourages them to continue to do so.

Alternative Visibility Platforms

In the *NPRM,* the Board invited comments on the adequacy of other billing or supply chain visibility tools or platforms (other than invoices or accompanying documentation) to provide rail users with access to the proposed minimum information. *NPRM,* EP 759, slip op. at 9 n.13. In response, Class I carriers state that their existing online platforms provide rail users with most (or, in some cases, all) of the information that the Board proposes.[42] UP asserts that its online platform benefits rail users by allowing them to create custom reports with information unique to their needs. (UP Comments 5, Nov. 6, 2019.) CP indicates that its online platform provides rail users with access to current information as shipments move across the rail network, as well as the ability to log concerns in real time, which obviates the need ''to review historical information to identify improper demurrage charges due to railroad-caused bunching.'' (CP Comments 3, June 5, 2020.)

Class I carriers ask that, if the Board adopts minimum information requirements, the Board allow them to provide the information on their online platforms, instead of on or with invoices.[43] CSXT argues that the demurrage information currently on its online platform is ''easily accessible'' and contends that if the Board were to require carriers to provide all of the required information on the invoice itself or determine that ''software platforms are acceptable only if all information is made available or downloadable in one central location,'' it would have to undertake a substantial and costly software redesign. (CSXT Comments 6, June 5, 2020.) UP also argues that invoices with all of the minimum information the Board proposes would not be useful to rail users since ''[a] combination of too many fields and fields that are irrelevant to most customers will make invoices cluttered and unreadable.'' (UP Comments 5, June 5, 2020.) Likewise, CSXT objects to a rule that would require it to compile the information into one invoice document because its physical invoice ''is already challenged in terms of available physical space'' and ''[i]t would be difficult to add additional categories without rendering the invoice unreadable.'' (CSXT Comments 8 & n.17, June 5, 2020.)

Conversely, several rail users describe carriers' current online platforms as impractical and cumbersome. (WCTL & SEC Comments 10, Nov. 6, 2019; Joint Reply (ACC, CRA, TFI, & NITL) 2, Dec. 6, 2019; Dow Reply 3, Dec. 6, 2019; ISRI Reply 2, July 6, 2020.) Joint commenters (ACC, CRA, TFI, and NITL) explain that locating information is a ''multistep process'' in which ''[a] customer cannot simply enter a demurrage invoice number and download a report of all of the car-event data for each car on the invoice'' but rather must access information for each car separately and often in multiple locations on the carrier's online platform. (Joint Reply (ACC, CRA, TFI, & NITL) 3, Dec. 6, 2019.) Dow specifically describes online portals belonging to four Class I carriers as cumbersome and identifies obstacles rail users may face in auditing demurrage invoices on these platforms, such as needing to search for certain information on a car-by-car basis, manually enter car marks, and navigate through multiple pages on the portal to access demurrage data. (Dow Reply 3–6, Dec. 6, 2019.) Likewise, PCA argues that since carriers are ''far from consistent in the level of information provided, the ease of access of that information, and the transparency of their demurrage procedures,'' rail users are often forced to ''cobble together'' the information on carriers' online platforms. (PCA Comments 2, June 5, 2020.) Nonetheless, certain rail users state that they do not object to Class I carriers providing the minimum information on their online platforms if they provide it in a format that rail users can download into a single, machine-readable file. (Dow Reply 8, July 6, 2020; ISRI Reply 2, 5, July 6, 2020.)

The record belies Class I carriers' claims that their current online platforms are more useful to rail users than invoices with minimum invoicing requirements. Rail users state they must, in many cases, search for, organize, and consolidate the information themselves from multiple locations on Class I carriers' online platforms. The final rule will ensure that rail users need not make unreasonable efforts to access basic information necessary to efficiently review and validate their demurrage invoices. In addition, Class I carriers will have flexibility to provide the minimum information either on the invoices or with the invoices as accompanying documentation. Furthermore, since demurrage issues may not be apparent until rail cars are delivered and demurrage is charged, the Board is unconvinced by CP's argument that allowing rail users to submit concerns on an online portal while shipments are in transit eliminates the need to review information on or with demurrage invoices.

Accordingly, the Board determines that Class I carriers must provide the minimum information described in section 1333.4 on demurrage invoices or with demurrage invoices as accompanying documentation. Class I carriers may provide the invoices as paper invoices, invoices attached to emails, invoices that are accessible on their online platforms, or other similar formats where the information is consolidated.[44]

Machine-Readable Data

In response to the *NPRM,* many rail user commenters voiced a preference for ''machine-readable'' data containing the minimum information. *See SNPRM,* EP 759, slip op. at 9–10 (describing comments received in response to the *NPRM* related to machine-readable data). The Board, therefore, invited additional comment on matters associated with modifying its regulations to require Class I carriers to provide rail users access to machine-

[42] (*See* KCS Comments 5, Nov. 6, 2019; CSXT Comments 10, Nov. 6, 2019; UP Comments 2, Nov. 6, 2019; CP Comments 4, Nov. 6, 2019; CN Comments 4, Nov. 6, 2019; BNSF Comments 2–3, June 5, 2020; NSR Reply 1, Dec. 6, 2019.)

[43] (CN Comments 7, June 5, 2020; CP Comments 6, June 5, 2020; CSXT Comments 2, June 5, 2020; NSR Comments 2, June 5, 2020; BNSF Comments 19, June 5, 2020; UP Comments 7, June 5, 2020.)

[44] The Board also clarifies that the final rule in this proceeding is a default rule, and Class I carriers and rail users may enter into separate agreements about how to convey and receive demurrage information.

readable data in a format to be chosen by the individual Class I carrier, such as a machine-readable invoice, a separate electronic file containing machine-readable data, or a customized link so rail users could directly download data in a machine-readable format. *Id.* at 10. The Board also invited comment on ways to prevent information inaccessibility for rail users without resources for coding or new upfront costs, and on any other issues pertaining to the accessibility of machine-readable data for small rail users. *Id.* Finally, the Board invited comment on how to define ''machine-readable,'' including the following definition proposed by commenters: ''A structured data file format that is open and capable of being easily processed by a computer. A format is open if it is not limited to a specific software platform and not subject to restrictions on re-use.'' *Id.*

In response to the *SNPRM,* rail users broadly support a requirement for machine-readable data, arguing that it will allow rail users to analyze demurrage invoices more efficiently and effectively by reducing the need for manual review, which is resource-intensive and imprecise.[45] Moreover, AFPM states that it supports the flexible compliance options identified by the Board, while other rail users request specific formatting requirements. (AFPM Comments 8, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 9, June 5, 2020 (requesting machine-readable invoices by email as attachments or direct links); NGFA Comments 7, June 5, 2020 (requesting customized links to machine-readable data); NITL Reply 7, July 6, 2020 (requesting machine-readable data in a ''single centralized location'').) In addition to machine-readable data, NGFA contends that rail users should be able to request paper or PDF invoices, (NGFA Comments 6, June 5, 2020), and NACD argues that invoices should ''continue to be available in standard format'' since small rail users would find analyzing machine-readable data difficult and costly, (NACD Comments 4–5, June 5, 2020).

BNSF, NSR, CP, CN, and UP state that they already provide rail users with some form of machine-readable data.[46] NSR states that it supports the use of machine-readable data but urges the Board not to make a requirement ''so prescriptive that it would stifle carrier and technological innovation on carriers' online platforms.'' (NSR Comments 2, 6, June 5, 2020.) CSXT states that it does not oppose providing machine-readable data on its online platform as long as ''the Board does not mandate any particular format or require that the information be provided in one place only or in a single data file.'' (CSXT Comments 6, June 5, 2020.) UP also asks the Board to specify that carriers can meet the machine-readable data requirement by making data available to rail users via their online platforms. (UP Comments 5–6, June 5, 2020.)

Regarding the definition of ''machine-readable,'' joint commenters (ACC, CRA, TCI, and TFI) and NITL support the definition proposed by some commenters in response to the *NPRM:*[47] ''a structured data file format that is open and capable of being easily processed by a computer. A format is open if it is not limited to a specific software platform and not subject to restrictions on re-use.'' (Joint Comments (ACC, CRA, TCI, & TFI) 8, June 5, 2020; NITL Comments 6, June 5, 2020.) Joint commenters (ACC, CRA, TCI, and TFI) contend that this definition would obviate the need for special coding and, therefore, ensure that small rail users can access machine-readable data. (Joint Comments (ACC, CRA, TCI, & TFI) 8, June 5, 2020.) NGFA agrees with this definition but would add the condition that a format is open if it ''can be read and interpreted automatically by a computer program without the need for manual intervention.'' (NGFA Comments 6–7, June 5, 2020.) In response to the *SNPRM,* Dow proposes an alternative definition, suggesting that the Board adopt a definition similar to the one used for the Federal Information Policy[48] and define machine-readable as ''an open format that can be easily processed by computer without human intervention while ensuring no semantic meaning is lost.'' (Dow Comments 6, June 5, 2020.) UP argues that the Board should specify that CSV and Excel files meet the definition of machine-readable data. (UP Comments 5–6, June 5, 2020.)

Rail users convincingly argue that machine-readable data will facilitate efficient auditing by allowing them to validate invoices electronically, thereby reducing the time and resources they must dedicate to manual review. Furthermore, Class I carriers appear to recognize the benefits of machine-readable data, as most provide some machine-readable data now or plan to do so in the future. Accordingly, the Board will adopt a machine-readable data requirement to ensure that all rail users have the option to access machine-readable data containing the minimum information discussed above. As proposed in the *SNPRM,* the Board will give Class I carriers the discretion to determine how to provide rail users with access to machine-readable data, such as, for example, through a machine-readable invoice, a separate electronic file, a customized link, or another similar option. *SNPRM,* EP 759, slip op. at 10.

The Board will adopt a definition for machine-readable data that is ''data in an open format that can be easily processed by computer without human intervention while ensuring no semantic meaning is lost.'' This definition, which is similar to the definition referenced in the *SNPRM,* is also consistent with the definition adopted for the Federal Information Policy at 44 U.S.C. 3502(18). However, unlike the Federal Information Policy definition, the Board's definition specifies that the data must be provided in an ''open format,'' to be defined as ''a format that is not limited to a specific software program and not subject to restrictions on re-use'' so that Class I carriers may choose the program with which to provide machine-readable data in an open format (*e.g.,* CSV). The open format will also ensure that rail users will not need access to specific software programs to process the data. Moreover, to accommodate those small rail users that state that they would find machine-readable data difficult to manage, the requirement for Class I carriers to provide machine-readable data to rail users will be in addition to, not in lieu

[45] (*See* ILTA Comments 1, 3, June 4, 2020; AFPM Comments 8, June 5, 2020; Dow Comments 5–6, June 5, 2020; IWLA Comments 2–3, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 8, June 5, 2020; Lansdale Comments 1, June 5, 2020; NGFA Comments 6, June 5, 2020; NITL Comments 6, June 5, 2020; PCA Comments 2, June 5, 2020.) *See also SNPRM,* EP 759, slip op. at 9–10 (describing comments received in response to the *NPRM* related to machine-readable data).

[46] BNSF states that rail users can sign up for emailed reports in Excel format and export reports in comma-separated values (CSV), Excel, and PDF formats from its online platform. (BNSF Comments 5, June 5, 2020.) NSR states that rail users can download spreadsheets, including Excel and CSV files, with detailed supporting information for the demurrage charges reflected on invoices. (NSR Comments 3, June 5, 2020.) CP indicates that it makes ''a substantial amount'' of the information identified by the Board available in a spreadsheet. (CP Comments 4–5, June 5, 2020.) CN states that it currently provides machine-readable data ''on request to certain customers'' and is working to provide downloadable machine-readable data to all customers. (CN Comments 12, June 5, 2020.) According to UP, invoices can be downloaded as CSV files on its online platform with additional supporting information downloadable in Excel format. (UP Comments 5, June 5, 2020.) Additionally, CSXT currently provides access to some downloadable machine-readable data, according to one rail user's comments. (*See* Dow Reply 6, Dec. 6, 2019.)

[47] *See SNPRM,* EP 759, slip op. at 9 (referring to proposal by joint commenters (ACC, CRA, TFI, and NITL) and Dow).

[48] *See* 44 U.S.C. 3502(18).

of, the requirement to provide the minimum information on or with their standard invoices, as discussed above.[49] The text is set forth in new section 1333.5.

Appropriate Action To Ensure Demurrage Charges Are Accurate and Warranted

In the *NPRM,* the Board proposed to require Class I carriers to ''take appropriate action to ensure that the demurrage charges are accurate and warranted'' prior to sending demurrage invoices. *NPRM,* EP 759, slip op. at 10. In response to commenters' concerns that this provision would create more uncertainty and potential litigation over its meaning, the Board invited further comment in the *SNPRM* from Class I carriers about the actions they currently take, and from all stakeholders about the actions Class I carriers reasonably should be required to take, to ensure that demurrage invoices are accurate and warranted. *SNPRM,* EP 759, slip op. at 10–11.

In response to the *SNPRM,* rail users propose a variety of actions that they argue Class I carriers should be required to take to ensure invoice accuracy, such as establishing auditing procedures,[50] showing how charges are calculated; [51] providing supporting documentation,[52] offering concise explanations for the charges,[53] certifying practices to the Board,[54] consulting with rail users,[55] and ensuring the accuracy of crew reporting.[56]

Class I carriers continue to oppose the appropriate-action proposal as unnecessary and overly restrictive. CN argues that the Board should not mandate any minimum level of appropriate action since carriers ''should have flexibility to exercise judgment to pursue an approach that works for [their] particular circumstances, including whether to reasonably rely on technological innovations to enhance accuracy or to enlist more manual review.'' (CN Comments 13, June 5, 2020.) CSXT contends that the proposed requirement ''places carriers in an untenable situation, as they may either fall short of a vague standard of 'appropriateness' or be unable to utilize the prescribed solutions that the Board mandates to ensure accuracy.'' (CSXT Comments 9, June 5, 2020.) UP contends that an appropriate-action requirement is unnecessary since it already has ''achieved a 95% accuracy rate.'' (UP Comments 7, June 5, 2020.) Additionally, BNSF, CN, NSR, and UP detail the actions they currently take to ensure invoice accuracy. (BNSF Comments 14–15, June 5, 2020; CN Comments 12–13, June 5, 2020; NSR Comments 9–10, June 5, 2020; UP Comments 6, June 5, 2020.)

Upon considering the comments on this issue, the Board is persuaded that the proposed appropriate-action requirement should not be adopted in the final rule. Class I carriers convincingly argue that the proposed requirement lacks sufficient detail. Because there are many different reasonable ways to facilitate invoice accuracy, and because deciding whether a particular method is reasonable may depend on a carrier's individual systems and procedures for auditing invoices and potential future advancements in technology, the Board also declines to adopt the specific requirements proposed by rail users.

For these reasons, the final rule adopted in this decision will not include the proposed appropriate-action requirement. Nevertheless, existing requirements, including those at 49 U.S.C. 10702 and 10746, continue to apply to carriers' demurrage invoicing practices. As the Board has made clear previously, it expects that all carriers will take reasonable actions to ensure the accuracy of their invoicing processes and that their demurrage charges are warranted. *See Pol'y Statement,* EP 757, slip op. at 15–16 (emphasizing that the Board expects rail carriers to ''bill for demurrage only when the charges are accurate and warranted, consistent with the purpose of demurrage,'' and that rail users should be able to review and dispute charges without incurring undue expense). That being so, the Board strongly encourages carriers to adopt rail users' suggested actions where warranted and practicable, such as conducting regular audits, consulting with rail users when necessary, and providing additional information upon reasonable request. Class I carriers' invoicing protocols and procedures should be considered, in the context of all other relevant facts and circumstances, when determining whether demurrage charges are reasonable and enforceable in individual cases.

Other Requests for Board Action

Rail users make a variety of other requests, including asking the Board to set a timeframe for Class I carriers to issue invoices, establish dispute resolution procedures, impose penalties for noncompliance with the rule, and apply the rule to accessorial charges. In addition, UP asks that the Board establish a separate process by which Class I carriers can obtain waivers from the final rule. The Board will discuss each of these requests below.

1. Time Limits for Invoice Issuance, Dispute Resolution Procedures, and Penalties

Several rail users ask the Board to set time limits for invoice issuance, (*see* NCTA Comments 3–4, Nov. 6, 2019; FRCA Comments 5, Nov. 6, 2019), take further action with respect to dispute resolution,[57] and impose penalties for carriers that issue demurrage invoices that do not comply with the rule, (*see* FRCA Comments 5–6, Nov. 6, 2019; FRCA Comments 2, June 5, 2020). No Class I carrier responds directly to these requests.

The Board will not pursue these requests at this time. The Board notes that, by separate decision, it provided guidance on the general principles it expects to consider when evaluating the reasonableness of carriers' invoicing timeframes in future cases and discussed requests to establish additional dispute resolution procedures.[58] *See Pol'y Statement,* EP 757, slip op. at 16 n.50, 17. With respect to the issue of penalties, the Board

[49] As discussed above, Class I carriers and rail users may enter into separate agreements to convey and receive only machine-readable data without the standard invoice option.

[50] (*See* ILTA Comments 3, June 4, 2020; ISRI Comments 10, June 5, 2020; NITL Comments 7, June 5, 2020; Dow Comments 7, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 9, June 5, 2020.)

[51] (*See* Dow Comments 7, June 5, 2020; Joint Comments (ACC, CRA, TCI, & TFI) 9, June 5, 2020.)

[52] (*See* AFPM Comments 9, June 5, 2020; IWLA Comments 3, June 5, 2020; ILTA Comments 3, June 4, 2020; NGFA Comments 8, June 5, 2020; NITL Reply 3, July 6, 2020.)

[53] (*See* AFPM Comments 9–10, June 5, 2020; NACD Comments 5, June 5, 2020; NGFA Comments 8, June 5, 2020.)

[54] (*See* FRCA Comments 2, June 5, 2020 (arguing that the Board should require carriers to ''certify that their rules and practices comply with the Board's standards''); NGFA Comments 8, June 5, 2020 (asserting that carriers should be required to ''inform the Board in writing of the specific steps each one takes to ensure the accuracy of its respective demurrage invoices, with the [Board] subsequently making such carrier statements publicly available on its website'').)

[55] (*See* NGFA Comments 3, June 5, 2020 (arguing that prior to issuing invoices, carriers should ''notify and consult with the affected rail customer to validate the accuracy and legitimacy of the charge'').)

[56] (Joint Reply (ACC, CRA, TCI, & TFI) 17, July 6, 2020.)

[57] (*See* IWLA Comments 2, Nov. 4, 2019; ILTA Comments 3, Nov. 6, 2019; IARW Comments 2, Nov. 6, 2019; NITL Comments 9–10, Nov. 6, 2019; WCTL & SEC Comments 9, Nov. 6, 2019; NAFCA Reply 2, Dec. 6, 2019; NGFA Reply 15, July 6, 2020.)

[58] Parties currently have access to mediation, arbitration, and assistance through the Board's Rail Customer and Public Assistance program, which can be reached by telephone at 202–245–0238 or email at *rcpa@stb.gov,* to resolve demurrage disputes.

expects that Class I carriers will make a concerted effort to comply with the requirements of the rule and finds that it is premature to address specific penalties for non-compliance at this time.[59]

2. Accessorial Charges

NAFCA, AM, and NGFA ask the Board to apply the minimum information requirements to accessorial charges. (NAFCA Comments 2, Nov. 6, 2019; AM Comments 7, Nov. 6, 2019; NGFA Comments 2, June 5, 2020.) Class I carriers did not comment on this issue.

The Board declines to extend the final rule to accessorial charges at this time. There are many kinds of accessorial charges and some, such as those imposed for weighing rail cars or requests for special trains, do not serve the same efficiency-enhancing purpose as demurrage. In their comments, rail users do not identify any specific accessorial charges to which the minimum information requirements should apply, or otherwise justify the extension of the final rule to accessorial charges generally. The Board encourages Class I carriers to provide the minimum information for those accessorial charges designed to enhance the efficient use of rail assets to the extent practicable. Should sufficient evidence be presented in the future that invoicing issues are arising with respect to specific accessorial charges, the Board can revisit this issue and propose any warranted modifications to the rule.

3. Waivers

UP requests that, if the Board adopts minimum information requirements, then it also establish a process whereby carriers could obtain waivers from the rule by ''attesting that either all of the required information is provided to customers or explain why a particular data set is not provided or unavailable.'' (UP Comments 7, June 5, 2020.) UP asserts that this process would need to take place prior to the final rule's effective date so that carriers know whether they need to reprogram their systems. (*Id.*)

NGFA objects to this suggestion, arguing that UP's waiver idea is impractical since it would require extensive Board monitoring to ensure that carriers' online platforms do not become noncompliant after waivers had been granted. (NGFA Reply 14–15, July 6, 2020.)

The Board declines to adopt UP's proposal. Pursuant to 49 CFR 1110.9, ''[a]ny person may petition the Board for a permanent or temporary waiver of any rule,'' and UP fails to explain why the Board's established waiver process is not sufficient to address its concerns. Furthermore, absent unique circumstances, the Board does not anticipate that the waiver process would be used to allow Class I carriers to provide the minimum information by means other than on or with an invoice as described above.

Time Frame for Compliance

Several Class I carriers request specific amounts of time to comply with the final rule. NSR asks for a minimum of three months to complete its reprogramming, and KCS requests at least six months. (NSR Comments 1, Nov. 6, 2019; KCS Comments 6–7, Nov. 6, 2019.) CSXT contends that if it is required to implement a software redesign ''sooner than nine months from the Board's decision,'' it will need to delay or reprioritize current projects. (CSXT Comments 7–8, June 5, 2020.) CP likewise states that it could comply within six months but requests at least one year to ''minimize disruption to existing projects and allow CP to prioritize its use of its resources appropriately.'' (CP Comments 6, June 5, 2020.)

The Board will allow Class I carriers until October 6, 2021, to provide the minimum information on or with demurrage invoices and comply with the machine-readable data requirement, as this timeframe allows Class I carriers a significant amount of time for reprogramming while also ensuring that rail users can benefit from improved demurrage invoicing practices without extended delay.

Exclusion of Class II and Class III Carriers

In the *NPRM,* the Board explained that it did not propose to require Class II and Class III carriers to comply with the rule because the demurrage issues raised by stakeholders before the Board predominantly pertained to Class I carriers and compliance costs would be more difficult for smaller carriers. *NPRM,* EP 759, slip op. at 10. The Board invited comment on the proposed exclusion of Class II and Class III carriers. *Id.*

Although some rail users recognize that demurrage issues most frequently involve Class I carriers, (*see* AFPM Comments 8, Nov. 6, 2019; ISRI Comments 10, Nov. 6, 2019), several express concerns about excluding Class II and Class III carriers,[60] particularly those with larger, more sophisticated operations, (*see* FRCA Comments 5, Nov. 6, 2019; AFPM Comments 8, Nov. 6, 2019). ISRI urges the inclusion of Class II and Class III carriers for uniformity across the industry, (*see* ISRI Comments 10, Nov. 6, 2019; ISRI Comments 10–11, June 5, 2020), and others fear that Class I carriers will seek to evade the rule by tasking Class II and Class III carriers with demurrage invoicing where possible, (*see* NITL Comments 10, Nov. 6, 2019; AF&PA Comments 10, Nov. 6, 2019). ILTA acknowledges that Class II and Class III carriers have fewer resources to comply with the rule but argues that small carriers should nonetheless be required to comply since small rail users must pay demurrage charges. (ILTA Comments 4, June 4, 2020.) Some rail users suggest that the Board should apply the rule to all carriers and grant waivers on a case-by-case basis to accommodate the smallest carriers. (NITL Comments 10, Nov. 6, 2019; AF&PA Comments 10, Nov. 6, 2019; AM Reply 5–6, Dec. 6, 2019.) Others suggest that the Board exclude some or all Class III carriers from the rule, but not Class II carriers. (AFPM Comments 8, Nov. 6, 2019 (exclude all Class III carriers, but not Class II carriers); FRCA Comments 5, Nov. 6, 2019 (require Class II carriers and Class III carriers affiliated with large holding companies to comply).)[61]

ASLRRA supports the Board's proposal to exclude Class II and Class III carriers. (ASLRRA Comments 3, Nov. 6, 2019; ASLRRA Reply 4, July 6, 2020.) It asserts that more than half of small carriers operate as handling line carriers and, as such, do not always receive all of the information the Board would propose to include in the minimum information requirements from connecting Class I carriers. (ASLRRA Comments 3, Nov. 6, 2019.) ASLRRA further contends that rail users' proposed additions ''would place an insurmountable burden on [small rail carriers].'' (ASLRRA Reply 4, Dec. 6, 2019.) ASLRRA argues that the suggestion that small carriers could file

[59] Violating a regulation or order of the Board could subject a carrier to appropriate remedial action. *See, e.g.,* 49 U.S.C. 11701, 11704, 11901.

[60] (*See* FRCA Comments 5, Nov. 6, 2019; AFPM Comments 8, Nov. 6, 2019; Barilla Comments 3, Nov. 6, 2019; CPC Comments 5, Nov. 6, 2019; IWLA Comments 3, June 5, 2020.)

[61] As the Board stated in the decision adopting the direct-billing final rule, *Demurrage Billing Requirements,* EP 759, slip op. at 14 n.29 (STB served Apr. 30, 2020), it is unclear whether some comments on this issue are intended to address exclusion of Class II and III carriers from the minimum information requirements aspect of the rule, the direct-billing aspect, or both. For completeness, all potentially applicable comments are addressed both here and in the decision adopting the direct-billing final rule.

for individual waivers is unworkable since the waiver process would be too expensive and time-consuming for small carriers with limited resources. (*Id.* at 7.) ASLRRA also dismisses rail users' concerns that Class I carriers would assign demurrage invoicing to small carriers to avoid the rule, arguing that Class I carriers will not ''want to cede the control of their operations or practices to others or the compensation they receive for the misuse of their rail assets.'' (*Id.* at 8.)

Nothing in this record undercuts the Board's initial view that the demurrage issues raised by stakeholders in *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. EP 754, predominantly pertain to Class I carriers. *See NPRM,* EP 759, slip op. at 10, 11. Nor do the comments provide a basis for concluding that Class I carriers will seek to avoid the rule by assigning their demurrage invoicing to small carriers.[62] The case-by-case waiver approach for Class II and III carriers suggested by some rail users could be impractical and unduly burdensome for small carriers (and may be problematic for some Class II carriers, where there is a range of capabilities). For these reasons, the Board will not adopt the proposals to make Class II carriers, and, under some proposals, certain Class III carriers, subject to the rule. The Board does, however, strongly encourage Class II and Class III carriers to comply with the rule to the extent they are able to do so.[63]

Conclusion

Consistent with this decision, the Board adopts a final rule that requires Class I carriers to include certain minimum information on or with demurrage invoices and provide machine-readable access to the minimum information. The final rule is set out in full below and will be codified in the Code of Federal Regulations.

[62] Should sufficient evidence be presented in the future that Class I carriers are attempting to avoid the rule by assigning their demurrage claims processing to small connecting carriers, the Board can revisit this issue and propose any warranted modifications to the rule.

[63] Additionally, KCS requests that the Board exclude it from the minimum information requirements, along with Class II and Class III carriers. (KCS Comments 6, Nov. 6, 2019.) The Board declines to do so since KCS has not demonstrated that the demurrage issues raised by stakeholders in this proceeding and Docket No. EP 754 do not pertain to its demurrage practices. Moreover, the Board does not have the same concerns regarding the compliance costs for Class I carriers, including KCS, as it does for Class II and Class III carriers.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities, (2) analyze effective alternatives that may minimize a regulation's impact, and (3) make the analysis available for public comment. Sections 601–604. In its final rule, the agency must either include a final regulatory flexibility analysis, section 604(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b). Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

As discussed above, the final rule will apply only to Class I carriers. Accordingly, the Board again certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities as defined by the RFA.[64] A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

Paperwork Reduction Act

In this proceeding, the Board is modifying an existing collection of information that is currently approved by the Office of Management and Budget (OMB) under OMB Control No. 2140–0021. In the *NPRM,* the Board sought comments pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, and OMB regulations at 5 CFR 1320.11, regarding: (1) Whether the collection of information, as modified, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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, when appropriate.

The Board estimated in the *NPRM* that the proposed requirements for minimum information to be included on or with Class I carriers' demurrage invoices would add a total one-time hourly burden of 280 hours (93.3 hours per year as amortized over three years or 40 hours per respondent[65]) because, in most cases, those carriers would likely need to modify their information technology systems to implement some or all of the proposed changes.[66] *NPRM,* EP 759, slip op. at 13. In response to comments received from CSXT and CN that this estimate was understated, the Board increased the estimate in the *SNPRM* to 560 hours (186.6 hours per year as amortized over three years or 80 hours per respondent), which included the time Class I carriers would need to undertake the software redesign necessary to incorporate both the proposed minimum information discussed in the *NPRM* and the proposed additions discussed in the *SNPRM.*[67] *SNPRM,* EP 759, slip op. at 14.

[64] For the purpose of RFA analysis, the Board defines a ''small business'' as only including those rail carriers classified as Class III carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of $20 million or less in 1991 dollars ($40,384,263 or less when adjusted for inflation using 2019 data). Class II carriers have annual operating revenues of less than $250 million in 1991 dollars ($504,803,294 when adjusted for inflation using 2019 data). The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its website. 49 CFR 1201.1–1; *Indexing the Annual Operating Revenues of R.Rs.,* EP 748 (STB served June 10, 2020).

[65] There are seven Class I carrier respondents.

[66] The Board also provided an hourly burden estimate for the proposal that Class I carriers directly bill the shipper for demurrage when the shipper and warehouseman agree to that arrangement and so notify the rail carrier. *NPRM,* EP 759, slip op. at 13. Comments pertaining to this hourly burden estimate were addressed in a separate decision. *See Demurrage Billing Requirements,* EP 759, slip op. at 16–17 (STB served Apr. 30, 2020).

[67] In the *NPRM,* the Board estimated that the proposed requirement that Class I carriers take appropriate action to ensure that demurrage charges are accurate and warranted would add a total one-time hourly burden of 560 hours (186.6 hours per year as amortized over three years or 80 hours per respondent) because Class I carriers would likely need to establish or modify appropriate demurrage invoicing protocols and procedures. *NPRM,* EP 759, slip op. at 13. In the *SNPRM,* the Board increased this estimate to 840 hours (280 hours per year as amortized over three years or 120 hours per respondent). *SNPRM,* EP 759, slip op. at 14. Because the final rule adopted in this decision will not include the proposed appropriate-action requirement, the Board's estimate of 840 hours (280 hours per year as amortized over three years or 120 hours per respondent) to establish or modify appropriate demurrage invoicing protocols and

Continued

In response to the *SNPRM,* CSXT filed comments addressing the Board's PRA burden estimates. First, CSXT reiterates its estimate offered in response to the *NPRM* that it will take nine months to implement a program redesign to include the minimum information on or with demurrage invoices. (CSXT Comments 6–7, June 5, 2020.) However, CSXT indicates that ''its nine[-]month estimate is not limited to actual programming time.'' (*Id.* at 8.) Instead, CSXT explains that its estimate includes scheduling delays due to other priority software development projects in its technology pipeline and programming time for other unrelated software development projects. (*Id.*) Thus, CSXT's nine-month estimate is not an actual estimate of the time that Class I carriers need to comply with the rule. Without more support, CSXT does not justify its nine-month estimate.[68]

Second, CSXT argues that the Board should include additional burdens under two potential scenarios. First, if the Board requires ''that all demurrage information be downloadable to a single machine-readable file, or be housed in a central location within ShipCSX,'' then CSXT estimates that it would need approximately three months (or 955 hours). Second, if the Board requires CSXT ''[t]o include all of the proposed data fields in the existing ShipCSX demurrage module,'' then CSXT estimates it would need 1,680 hours, over a period of four to five months ''due to the multiple data programmers, sources, and systems involved.'' (*Id.* at 7–8 (footnote omitted).)[69]

CSXT's estimates of three months (955 hours) and four to five months (1,680 hours) appear to encompass the time CSXT would need to provide machine-readable data in various specific formats or in a central location. Although the final rule will not mandate any particular format for machine-readable data and, instead, will allow Class I carriers the discretion to select how to provide access to machine-readable data, the Board recognizes CSXT's stated concern that it may need more than 80 hours to modify its invoicing systems to include the required minimum information and provide machine-readable access to such information. Accordingly, the Board will increase its estimate from 560 hours (186.6 hours per year as amortized over three years or 80 hours per respondent) to 1,120 hours (373.3 hours per year as amortized over three years or 160 hours per respondent).

No other carriers commented on the Board's estimates.

This modification to an existing collection, along with CSXT's comment and the Board's response, will be submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11.

Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this rule as non-major, as defined by 5 U.S.C. 804(2).

List of Subjects in 49 CFR Part 1333

Penalties, Railroads.

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the final rule will be published in the **Federal Register**.

2. The final rule is effective on October 6, 2021, as set forth in this decision.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

Decided: March 30, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1333 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1333—DEMURRAGE LIABILITY

■ 1. The authority citation for part 1333 continues to read as follows:

Authority: 49 U.S.C. 1321, 10702, and 10746.

■ 2. Add § 1333.4 to read as follows:

§ 1333.4 Information Requirements for Demurrage Invoices

The following information shall be provided on or with any demurrage invoices issued by Class I carriers:

(a) The billing cycle covered by the invoice;

(b) The unique identifying information (*e.g.,* reporting marks and number) of each car involved;

(c) The following information, where applicable:

(1) The date the waybill was created;

(2) The status of each car as loaded or empty;

(3) The commodity being shipped (if the car is loaded);

(4) The identity of the shipper, consignee, and/or care-of party, as applicable; and

(5) The origin station and state of the shipment;

(d) The dates and times of:

(1) Original estimated arrival of each car, as generated promptly following interchange or release of shipment to the invoicing carrier and as based on the first movement of the invoicing carrier;

(2) Receipt of each car at the last interchange with the invoicing carrier (if applicable);

(3) Actual placement of each car;

(4) Constructive placement of each car (if applicable and different from actual placement);

(5) Notification of constructive placement to the shipper or third-party intermediary (if applicable);

(6) Each car ordered in (if applicable) (*i.e.,* the date and time demurrage first stops accruing with respect to a closed-gate facility);

(7) release of each car; and

(e) The number of credits and debits attributable to each car (if applicable).

■ 3. Add § 1333.5 to read as follows:

§ 1333.5 Machine-Readable Access to Information Required for Demurrage Invoices

In addition to providing the minimum information on or with demurrage invoices, Class I carriers shall provide machine-readable access to the information listed in § 1333.4. For purposes of this part, 'machine-readable' means data in an open format that can be easily processed by computer without human intervention while ensuring no semantic meaning is lost. An 'open format' is a format that is not limited to a specific software program and not subject to restrictions on re-use.

[FR Doc. 2021–07000 Filed 4–5–21; 8:45 am]

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procedures will not be included in the final estimate.

[68] CSXT also asserts that it would need to ''engage an outside vendor, adding even further cost and time'' to provide the minimum information on demurrage invoices, (CSXT Comments 8, June 5, 2020), but this argument lacks the specificity to support additional burden hours or a non-hourly dollar amount for additional costs.

[69] Additionally, CSXT estimates that it would need only two to three days (80 hours or less) of programming time if Class I carriers have full discretion to decide how to present the minimum information, (CSXT Comments 7 & n.16, June 5, 2020), but the final rule does not allow this level of discretion.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363–7275–02]

RTID 0648–XA985

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; Reopening of Commercial Hook-and-Line for King Mackerel in the Gulf of Mexico Southern Zone

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

ACTION: Temporary rule; reopening.

SUMMARY: NMFS is temporarily reopening the commercial hook-and-line component for king mackerel in the Gulf of Mexico (Gulf) southern zone. The most recent commercial landings data for king mackerel in the Gulf southern zone indicate the commercial hook-and-line quota for the 2020–2021 fishing year has not yet been reached. The commercial hook-and-line component will reopen for 5 days to allow harvest of remaining king mackerel commercial quota. NMFS intends this action to maximize the economic benefits to commercial fishermen while continuing to protect the Gulf king mackerel resource within the established commercial quota.

DATES: This temporary rule is effective from 12:01 a.m., local time, on April 4, 2021, through April 8, 2021.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *kelli.odonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Gulf includes king mackerel and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The Gulf of Mexico and South Atlantic Fishery Management Councils prepared the FMP. NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All weights for Gulf migratory group king mackerel (Gulf king mackerel) in this temporary rule apply as either round or gutted weight.

The commercial sector for Gulf king mackerel is divided into western, northern, and southern zones. The southern zone for Gulf king mackerel encompasses an area of the exclusive economic zone (EEZ) south of a line extending due west from the boundary of Lee and Collier Counties on the Florida west coast, and south of a line extending due east from the boundary of Monroe and Miami-Dade Counties on the Florida east coast, and includes the EEZ off Collier and Monroe Counties in south Florida (50 CFR 622.369(a)(1)(iii)).

Under 50 CFR 622.388(a)(1), NMFS is required to close the king mackerel commercial sector for the applicable zone or gear type during the remainder of the fishing year if landings reach, or are projected to reach, the applicable commercial quota by filing a notification to that effect with the Office of the Federal Register. The fishing year for the harvest of Gulf king mackerel with hook-and-line gear in the southern zone is July 1 through June 30. On February 22, 2021, NMFS projected that commercial fishermen would reach the commercial hook-and-line quota for Gulf king mackerel in the southern zone and published a temporary rule in the **Federal Register** to close the zone to commercial harvest using such gear through June 30, 2021 (86 FR 10183, February 19, 2021).

However, the most recent landings data for king mackerel in the Gulf southern zone indicate the commercial hook-and-line quota for the 2020–2021 fishing year has not yet been reached. The commercial hook-and-line quota for Gulf king mackerel in the southern zone is 575,400 lb (260,997 kg) for the 2020–2021 fishing year (50 CFR 622.384(b)(1)(iii)(A)). Approximately 50,562 lb (22,934 kg) of the commercial hook-and-line quota remain, and NMFS projects that this amount will be harvested in 5 days.

Therefore, in accordance with 50 CFR 622.8(c), NMFS reopens the commercial hook-and-line component for king mackerel in the Gulf southern zone for 5 days to allow the commercial quota to be caught. Following the 5-day reopening period, the hook-and-line component of the commercial sector for Gulf king mackerel in the southern zone is closed again from April 9, 2021, through the end of the fishing year on June 30, 2021. The commercial hook-and-line component for Gulf king mackerel in the southern zone reopens on July 1, 2021.

NMFS has also previously determined that the Gulf king mackerel commercial quota for vessels using run-around gillnet gear in the southern zone was reached on January 28, 2021, and therefore on that date, NMFS closed the southern zone to commercial king mackerel fishing using such gear (86 FR 7815, February 2, 2021). Accordingly, all commercial fishing for Gulf king mackerel in the southern zone is closed from April 9, 2021, through June 30, 2021. The commercial run-around gillnet component for Gulf king mackerel in the southern zone will reopen at 6 a.m. local time on January 18, 2022.

A person aboard a vessel that has a valid Federal commercial permit for king mackerel may continue to retain king mackerel under the recreational bag and possession limits specified in 50 CFR 622.382(a)(1)(ii) and (a)(2), as long as the recreational sector for Gulf king mackerel is open (50 CFR 622.384(e)(1)).

During the commercial closure, king mackerel caught with hook-and-line gear from the closed zone may not be purchased or sold, including those harvested under the recreational bag and possession limits. This prohibition does not apply to king mackerel caught with hook-and-line gear from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is taken under 50 CFR 622.8(c), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulation at 50 CFR 622.8(c) has already has already been subject to notice and public comment, and all that remains is to notify the public that additional harvest is available under the established commercial quota, and therefore, the commercial hook-and-line component for Gulf king mackerel in the southern zone will reopen. Prior notice and opportunity for public comment on this action is contrary to the public interest because these fish are migratory and reopening quickly is necessary to provide fishermen the best opportunity to harvest the fish before they leave the area. NMFS expects reopening quickly to help achieve optimum yield by making additional king mackerel available to consumers and resulting in revenue increases to commercial fishermen.

For the aforementioned reasons, there is good cause under 5 U.S.C. 553(d)(3)

to waive the 30-day delay in effectiveness of this action.

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

Dated: April 1, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–07094 Filed 4–1–21; 4:40 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210217–0022]

RTID 0648–XA986

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule.

SUMMARY: NMFS is reallocating the projected unused amounts of the Community Development Quota (CDQ) and Aleut Corporation pollock directed fishing allowance (DFA) from the Aleutian Islands subarea to the Bering Sea subarea. This action is necessary to provide opportunity for harvest of the 2021 total allowable catch of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI).

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 6, 2021 through 2400 hours, A.l.t., December 31, 2021.

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

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

In the Aleutian Islands subarea, the portion of the 2021 pollock total allowable catch (TAC) allocated to CDQ groups is 1,900 mt and the Aleut Corporation DFA is 14,600 mt as established by the final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021).

As of March 26, 2021, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 1,900 mt of CDQ pollock and 12,600 mt of the Aleut Corporation pollock DFA in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS reallocates 1,900 mt of CDQ pollock and 12,600 mt of the Aleut Corporation pollock DFA from the Aleutian Islands subarea to the Bering Sea subarea. The 1,900 mt of 2021 Aleutian Islands CDQ pollock is added to the 2021 Bering Sea CDQ pollock. The 12,600 mt of 2021 Aleutians Islands Aleut Corporation pollock DFA is added to the 2021 Bering Sea pollock DFA. The 2021 Bering Sea subarea pollock incidental catch allowance remains at 49,500 mt. As a result, the 2021 harvest specifications for pollock in the Aleutian Islands subarea included in the final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021) are revised as follows: 0 mt for AI CDQ pollock and 2,000 mt for the Aleut Corporation pollock DFA. Furthermore, pursuant to § 679.20(a)(5), Table 4 of the final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021), is revised to make 2021 pollock allocations consistent with this reallocation. This reallocation results in an adjustment to the 2021 CDQ and Aleut Corporation pollock allocations established at § 679.20(a)(5).

TABLE 4—FINAL 2021 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2021 Allocations	2021 A season [1]		2021 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,389,500	n/a	n/a	n/a
CDQ DFA	139,400	62,730	39,032	76,670
ICA [1]	49,500	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,200,600	540,270	336,168	660,330
AFA Inshore	600,300	270,135	168,084	330,165
AFA Catcher/Processors [3]	480,240	216,108	134,467	264,132
Catch by CPs	439,420	197,739	n/a	241,681
Catch by CVs [3]	40,820	18,369	n/a	22,451
Unlisted CP Limit [4]	2,401	1,081	n/a	1,321
AFA Motherships	120,060	54,027	33,617	66,033
Excessive Harvesting Limit [5]	210,105	n/a	n/a	n/a
Excessive Processing Limit [6]	360,180	n/a	n/a	n/a
Aleutian Islands subarea ABC	51,241	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	4,500	n/a	n/a	n/a
CDQ DFA			n/a	
ICA	2,500	1,250	n/a	1,250
Aleut Corporation	2,000	2,000	n/a	
Area harvest limit [7]	n/a	n/a	n/a	n/a
541	15,372	n/a	n/a	n/a
542	7,686	n/a	n/a	n/a
543	2,562	n/a	n/a	n/a

TABLE 4—FINAL 2021 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]—Continued

[Amounts are in metric tons]

Area and sector	2021 Allocations	2021 A season [1]		2021 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bogoslof District ICA [8]	250	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock TAC, after subtracting the CDQ DFA (10 percent) and the ICA (4 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (CP)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) through (iii), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (2,500 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the Aleutian Islands subarea, the A season is allocated up to 40 percent of the Aleutian Islands pollock ABC.

[2] In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(4), 8.5 percent of the DFA allocated to listed CPs shall be available for harvest only by eligible catcher vessels with a CP endorsement delivering to listed CPs, unless there is a CP sector cooperative for the year.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processor sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of no more than 5 percent of the Aleutian Islands pollock ABC.

[8] Pursuant to § 679.22(a)(7)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are for incidental catch only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Aleutian Islands pollock. Since the pollock fishery opened January 20, 2021, it is important to immediately inform the industry as to the Bering Sea subarea CDQ pollock and the Bering Sea subarea Aleut Corporation pollock DFA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 26, 2021.

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

Dated: April 1, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–07082 Filed 4–5–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 64
Tuesday, April 6, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0221; Airspace Docket No. 21–AEA–5]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Dubois, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Dubois Regional Airport, Dubois, PA. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Clarion VHF omnidirectional range (VOR) navigation aids as part of the VOR Minimum Operational Network (MON) Program. The name for the Penn Highlands Healthcare-Dubois Heliport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before May 21, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0221/Airspace Docket No. 21–AEA–5, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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 Airspace Policy 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: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

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 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 would amend the Class E airspace extending upward from 700 feet above the surface at Dubois Regional Airport, Dubois, PA, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0221/Airspace Docket No. 21–AEA–5.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend 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 Proposal

The FAA is proposing an amendment to 14 CFR 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 7.3-mile (decreased from a 9.2-mile) radius of Dubois Regional Airport; adding an extension 2.1 miles either side of the 062° bearing from the Dubois RGNL: RWY 25–LOC extending from the 7.3-mile radius of Dubois Regional Airport to 9.2 miles northeast of the Dubois Regional Airport; and updating the name of Penn Highlands Healthcare-Dubois Heliport (previously Penn Highlands Healthcare-Dubois Heliport Point In Space Coordinates) to coincide with the FAA's aeronautical database and the airspace reference point.

This action is the result of an airspace review caused by the decommissioning of the Clarion VOR, which provided navigation information for the instrument procedures these airports, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 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 Class E airspace designations listed in this document will be published subsequently in the Order.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR 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 14 CFR 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 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Dubois, PA [Amended]

Dubois Regional Airport, PA
(Lat. 41°10′42″ N, long. 78°53′55″ W)
Dubois RGNL: RWY 25–LOC
(Lat. 41°10′26″ N, long. 78°54′34″ W)
Penn Highlands Healthcare-Dubois Heliport
(Lat. 41°06′52″ N, long. 78°46′26″ W)

That airspace extending upward from 700 feet above the surface within an 7.3-mile radius of the Dubois Regional Airport, and within 2.1 miles either side of the 062° bearing from Dubois RGNL: RWY 25–LOC extending from the 7.3-mile radius to 9.2 miles northeast of the Dubois Regional Airport, and that airspace within a 6-mile radius of the Penn Highlands Healthcare-Dubois Heliport.

Issued in Fort Worth, Texas, on March 31, 2021.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–06918 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0170]

RIN 1625–AA00

Safety Zone; Sabine River, Orange, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX. The safety zone is necessary to protect persons and vessels from hazards associated with a high-speed boat race competition in Orange, TX. Entry of vessels or persons into this zone would be prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 21, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0170 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Scott Whalen, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409–719–5086, email *Scott.K.Whalen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On March 18, 2021, the City of Orange, TX notified the Coast Guard that it will be sponsoring high speed boat races from 8:30 a.m. to 6 p.m. on May 22 and 23, 2021, adjacent to the public boat ramp in Orange, TX. The Captain of the Port Port Arthur (COTP)

has determined that potential hazards associated with high speed boat races would be a safety concern for spectator craft and vessels in the vicinity of these race events.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters of the Sabine River adjacent to the public boat ramp in Orange, TX before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 7:30 a.m. on May 22, 2021 through 6 p.m. on May 23, 2021. The safety zone would be enforced from 7:30 a.m. to 6 p.m. on both the 22nd and the 23rd. The safety zone would cover all navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05′50″ N and to the south at latitude 30°05′33″ N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. They will be available on VHF–FM or by telephone.

The COTP or a designated representative may prohibit or control the movement of all vessels in the zone. The COTP or a designated representative may terminate the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative may terminate enforcement of the safety zone at the conclusion of the event.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the proposed size, location and duration of the rule. The safety zone will encompass a less than half-mile stretch of the Sabine River for eight hours on each of two days. The Coast Guard will notify the public by issuing Local Notice to Mariners (LNM), and/or Marine Safety Information Bulletin (MSIB) and Broadcast Notice to Mariners via VHF–FM radio and the rule will allow vessels to seek permission to enter the zone during scheduled breaks.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination

that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that would last 8 hours on each of two days and that would prohibit entry on less than a half-mile stretch of the Sabine River in Orange, TX. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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

Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREA AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0170 to read as follows:

§ 165.T08–0170 Safety Zone; Sabine River, Orange, Texas.

(a) *Location.* The following area is a safety zone: All navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05′50″ N and to the south at latitude 30°05′33″ N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area.

(b) *Effective period.* This section is effective from 10 a.m. through 6 p.m. on May 22, 2021 and May 23, 2021.

(c) *Enforcement periods.* This section will be enforced from 10 a.m. through 6 p.m. daily.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative. They may be contacted on VHF–FM channel 13 or 16, or by phone at by telephone at 409–719–5070.

(2) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: March 23, 2021.

Molly A. Wike,

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

[FR Doc. 2021–06398 Filed 4–5–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2021–OESE–0036]

Proposed Priorities and Requirement—Innovative Approaches to Literacy

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed priorities and requirement.

SUMMARY: The Department of Education (Department) proposes to establish four priorities and one requirement under the Innovative Approaches to Literacy (IAL) program, Assistance Listing Number 84.215G. We may use one or more of these priorities and this requirement for competitions in fiscal year (FY) 2021 and later years. The proposed priorities are intended to expand the range of applicants benefiting from Federal funding and promote greater innovation, by supporting students in urban areas and students from low-income families. The proposed priorities are also designed to

enhance the coordination between local educational agencies (LEAs) and school libraries, particularly in carrying out literacy activities, and promote learning environments that are racially, ethnically, culturally, disability and linguistically responsive and inclusive, supportive, and identity-safe.

DATES: We must receive your comments on or before May 6, 2021.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''FAQ.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed priorities and requirement, address them to Simon Earle, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E254, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Simon Earle, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E254, Washington, DC 20202–6450. Telephone: (202) 453–7923. Email: *Simon.Earle@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:

Invitation to Comment: We invite you to submit comments regarding this document. To ensure that your comments have maximum effect in developing the notice of final priorities and requirement, we urge you to identify clearly the specific section of the proposed priorities and requirement that each comment addresses.

In addition to your general comments, recommended clarifications, and specific input on the proposed priorities and requirement, we are particularly interested in your feedback on the following questions:

(1) In Proposed Priority 3, the Department proposes that an LEA would be considered ''urban'' if it is assigned a National Center for Education Statistics (NCES) locale code of 11, 12, or 13. Are NCES locale codes the most appropriate indicator of urbanicity for the purposes of the proposed priority, or are there other indicators we should consider?

(2) The Department seeks to streamline the application process and minimize applicant burden and confusion. Under Proposed Priority 4, an applicant must demonstrate the extent to which it meets the priority using data from the most recent U.S. Census Bureau's Small Area Income and Poverty Estimates (SAIPE) program. Under the statutory eligibility requirements for this program, an applicant must use SAIPE data to demonstrate that the LEA or LEAs receiving a grant, or to be served by the proposed project, have student populations with at least 20 percent of students from families living below the poverty line. We believe that using the same data source that must be used for eligibility determinations (*i.e.,* SAIPE data) for the proposed priority, with different percentage thresholds, would minimize confusion and burden on applicants. Are there poverty data sources we should consider using for the proposed priority other than SAIPE that would also achieve these goals?

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priorities and requirement. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of our program.

During and after the comment period, you may inspect all public comments about the proposed priorities and requirement by accessing *Regulations.gov*. Due to the novel coronavirus 2019 (COVID–19) pandemic, the Department buildings are currently not open to the public. However, upon reopening you may also inspect the comments in person in Room 3E254, 400 Maryland Avenue SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this document. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in high-need LEAs and schools. The Department intends to promote innovative literacy programs that support the development of literacy skills in low-income communities, including programs that: (1) Develop and enhance effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high-need schools; (2) provide early literacy services, including pediatric literacy programs through which, during well-child visits, medical providers trained in research-based methods of early language and literacy promotion provide developmentally appropriate books and recommendations to parents to encourage them to read aloud to their children starting in infancy; and (3) provide high-quality books on a regular basis to children and adolescents from low-income communities to increase reading motivation, performance, and frequency.

Program Authority: 20 U.S.C. 6646.

Proposed Priorities

This document contains four proposed priorities.

Proposed Priority 1—Projects, Carried Out in Coordination with School Libraries, for Book Distribution, Childhood Literacy Activities, or Both.

Background: The Explanatory Statement for Division H of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) (2021 Appropriations Explanatory Statement) includes language directing the Department to reserve no less than 50 percent of funds under the IAL program for grants to develop and enhance effective school library programs, which may include providing professional development to school librarians and books and up-to-date materials to high-need schools. 166 Cong. Rec. H8634, 2020. As early as 1992, researchers have found through

various studies that there is a positive correlation between high-quality library activities and student achievement. In addition, newer studies, conducted over the last several years, show that strong school libraries are also associated with other important indicators of student success, including graduation rates and mastery of academic standards. In fact, these studies have often found that the benefits associated with good library programs are strongest for the most vulnerable and at-risk learners, including students of color, low-income students, and students with disabilities.[1] Ensuring that children have access to books and childhood literacy activities and are being read to before they can read, is critical to setting them up for future literacy.

Proposed Priority:

Projects that propose to coordinate with school libraries to carry out grant activities, such as book distributions, childhood literacy activities, or both, for the proposed project.

Proposed Priority 2—Providing a Learning Environment That Is Racially, Ethnically, Culturally, Disability and Linguistically Responsive and Inclusive, Supportive, and Identity-safe.

Background: The school-age population in the United States is becoming more racially and ethnically diverse. According to the 2018 report, Status and Trends in the Education of Racial and Ethnic Groups, in the fall 2015, approximately 30 percent of public school students attended schools in which the combined enrollment of students of color was at least 75 percent of total enrollment, and about 4.9 million public school students were identified as English learners (EL).[2]

To provide all students with learning opportunities, it is critical that school districts work to create environments that validate and reflect the diversity, identities, and experiences of all students, including students with disabilities. Acknowledging and addressing racial, ethnic, cultural, disability and linguistic differences through program design can help support students from all backgrounds.

As described below, when students see that their unique differences, identities, and experiences are actively acknowledged and valued in the learning environment, they are more likely to be engaged in the learning process. This, in turn, contributes to what has been called an ''identity-safe'' learning environment. According to the authors Dorothy Steele and Becki Cohn-Vargas, ''Identity-safe classrooms are those in which teachers strive to assure students that their social identities are an asset rather than a barrier to success in the classroom. And, through strong positive relationships and opportunities to learn, they feel they are welcomed, supported, and valued as members of the learning community.'' [3]

The related concept of ''windows and mirrors'' was developed in the work of Dr. Rudine Sims Bishop. Dr. Bishop wrote that: ''When children cannot find themselves reflected in the books they read, or when the images they see are distorted, negative, or laughable, they learn a powerful lesson about how they are devalued in the society of which they are a part. Our classrooms need to be places where all the children from all the cultures that make up the salad bowl of American society can find their mirrors. Children from dominant social groups have always found their mirrors in books, but they, too, have suffered from the lack of availability of books about others. They need books that will help them understand the multicultural nature of the world they live in, and their place as a member of just one group, as well as their connections to all other humans.'' [4]

Proposed Priority:

Projects designed to be responsive to racial, ethnic, cultural, disability and linguistic differences in a manner that creates inclusive, supportive, and identity-safe learning environments.

In its application, the applicant must—

(a) Describe the types of racially, ethnically, culturally, disability status and linguistically responsive program design elements that the applicant proposes to include in its project; and

(b) Explain how its program design will create inclusive, supportive, and identity-safe environments.

Proposed Priority 3—Supporting Students in Urban Areas.

Background: A consistent challenge facing schools and LEAs in urban areas is the lack of resources. ''Each year, it seems, urban schools serve larger concentrations of poor students, racial minorities, and ELs. As higher-income families depart, resources go with them, and schools are faced with the daunting prospect of doing more with less.'' [5] Additionally, there is a need to ensure that students in urban schools have access to appropriate and necessary resources key to achieving educational gains. The 2021 Appropriations Explanatory Statement includes language directing the Department to ensure that grants are distributed among eligible entities that will serve geographically diverse areas, including underserved communities in urban school districts. 166 Cong. Rec. H8634, 2020. For the purposes of this proposed priority, we propose to consider an LEA to be ''urban'' if it is assigned one of the following NCES locale codes: [6]

Locale code	Type of city	Territory
11	Large	Inside an Urbanized Area and inside a Principal City with a Population of 250,000 or more.
12	Midsize	Inside an Urbanized Area and inside a Principal City with a population less than 250,000 and greater than or equal to 100,000.
13	Small	Inside an Urbanized Area and inside a Principal City with a population less than 100,000.

Proposed Priority:

Projects that are designed to serve one or more urban LEAs. In its application, an applicant must demonstrate one of the following:

(a) The applicant is an eligible LEA or consortium of eligible LEAs with a locale code of 11, 12, or 13; or

(b) The applicant is a national nonprofit that proposes to serve schools within eligible LEAs all of which have a locale code of 11, 12, or 13.

Note: Applicants should retrieve locale codes from the NCES School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), searching by LEA.

Proposed Priority 4—Supporting Students from Low-Income Families.

[1] Lance, K.C. & Kachel, D.E. (2018). Why school librarians matter: What years of research tell us. *PDK International. https://kappanonline.org/lance-kachel-school-librarians-matter-years-research/.*

[2] *https://nces.ed.gov/programs/raceindicators/index.asp.*

[3] Steele, D. M. & Cohn-Vargas, B. (2013). *Identify Safe Classrooms.* Thousand Oaks, Corwin. *http://www.identitysafeclassrooms.com/.*

[4] *https://scenicregional.org/wp-content/uploads/2017/08/Mirrors-Windows-and-Sliding-Glass-Doors.pdf.*

[5] Schneider, J. (2017). *The Urban-School Stigma. The Atlantic. https://www.theatlantic.com/education/archive/2017/08/the-urban-school-stigma/537966/.*

[6] *https://nces.ed.gov/surveys/urbaned/definitions.asp.*

Background: To be an eligible LEA under the IAL program, 20 percent or more of the students served by the LEA must be from families with an income below the poverty line. 20 U.S.C. 6646(b)(1)(A). The 2021 Appropriations Explanatory Statement directs the Department to ensure that grants are distributed among eligible entities that will serve geographically diverse areas, including rural areas and underserved communities in urban school districts, in which students from low-income families make up at least 50 percent of enrollment. 166 Cong. Rec. H8634, 2020.

We believe that targeting IAL grants to low-income LEAs is critically important. According to the World Literacy Foundation, more than 60 percent of low-income families have no children's books in their homes.[7] In proposing this priority, we also carefully consider added burden on prospective applicants. For reasons discussed earlier, we believe that the appropriate data source for this proposed priority is SAIPE. In response to the congressional directive, we researched how many LEAs across the country, urban and otherwise, serve at least 50 percent of students from families living below the poverty line, and determined that this threshold may be too rigorous. In order to address the congressional directive and ensure we are meaningfully prioritizing LEAs that serve high percentages of low-income families, we propose six poverty thresholds from which the Department may choose to use in a notice inviting applications for IAL grants.

Proposed Priority:

Projects that serve students from low-income families or that serve LEAs serving students from low-income families. In its application, an applicant must demonstrate, based on SAIPE data from the U.S. Census Bureau or, for an LEA for which SAIPE data are not available, the same State-derived equivalent of SAIPE-data that the State uses to make allocations under part A of title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA), one or more of the following:

(a) At least 25 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(b) At least 30 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(c) At least 35 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(d) At least 40 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(e) At least 45 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(f) At least 50 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Proposed Requirement

Background: The types of eligible applicants listed below follow the requirements of the IAL statute and are not considered changed or new. However, the Department is proposing a requirement that would clearly define how an applicant must demonstrate that it meets the eligibility requirement, including the data source and documentation that will be required to be submitted in the grant application by an eligible applicant.

Proposed Requirement:

The Department proposes the following requirement for this program. We may apply this requirement in any year in which this program is in effect.

Eligible Applicants: To be considered for an award under this competition, an applicant must be one or more of the following:

(1) An LEA in which 20 percent or more of the students served by the LEA are from families with an income below the poverty line (as defined in section 8101(41) of the ESEA).

(2) A consortium of such LEAs described in paragraph (1) above.

(3) The Bureau of Indian Education.

(4) An eligible national nonprofit organization (as defined in section 2226(b)(2) of the ESEA) that serves children and students within the attendance boundaries of one or more eligible LEAs.

Note: Under the definition of ''poverty line'' in section 8101(41) of the ESEA, the determination of the percentage of students served by an LEA from families with an income below the poverty line is based on the U.S. Census Bureau's SAIPE.

An entity that meets the definition of an LEA in section 8101(30) of the ESEA and that serves multiple LEAs, such as a county office of education, an education service agency, or regional service education agency, must provide the most recent SAIPE data for each of the individual LEAs it serves. To determine whether the entity meets the poverty threshold, the Department will derive the entity's poverty rate by aggregating the number of students from families below the poverty line (as provided in SAIPE data) in each of the LEAs the entity serves and dividing it by the total number of students (as provided in SAIPE data) in all of the LEAs the entity serves.

An LEA for which SAIPE data are not available, such as a non-geographic charter school, must provide a determination by the State educational agency (SEA) that 20 percent or more of the students aged 5–17 in the LEA are from families with incomes below the poverty line based on the same State-derived poverty data the SEA used to determine the LEA's allocation under part A of title I of the ESEA.

Final Priorities and Requirement:

We will announce the final priorities and requirement in a notice in the **Federal Register**. We will determine the final priorities and requirement after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use these priorities and the

[7] *https://worldliteracyfoundation.org/north-america/.*

requirement, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this proposed regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We issue the proposed priorities and requirement only on a reasoned determination that the benefits would justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that the proposed priorities and requirement are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Potential Costs and Benefits

The Department believes that this proposed regulatory action would not impose significant costs on eligible entities, whose participation in our programs is voluntary, and costs can generally be covered with grant funds. As a result, the proposed priorities and requirement would not impose any particular burden except when an entity voluntarily elects to apply for a grant. The benefits of the proposed priorities and requirement would outweigh any associated costs because they would help ensure that the Department's discretionary grant programs select high-quality applicants to implement activities that are designed to address innovative approaches to literacy. In addition, these proposed priorities and requirement are specifically targeted to prioritize applicants from underserved areas and reduce application burden on such applicants.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed priorities and requirement easier to understand, including answers to questions such as the following:

- Are the priorities and requirement in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make the proposed priorities and requirement easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the proposed priorities and requirement would significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Paperwork Reduction Act

The proposed priorities and requirement contain information collection requirements that are approved by OMB under OMB control number 1894–0006.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document 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 the 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.

Ruth Ryder,

Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education.

[FR Doc. 2021–07027 Filed 4–5–21; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R08–OAR–2020–0098; FRL–10021–83–Region 8]

Approval and Promulgation of Implementation Plans; State of Utah; Salt Lake City and Provo, Utah $PM_{2.5}$ Redesignations to Attainment and Utah State Implementation Plan Revisions; Availability of Supplemental Information and Reopening of the Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; availability of supplemental information and reopening of the comment period.

SUMMARY: On November 6, 2020, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking to approve redesignation of the Salt Lake City, Utah and Provo, Utah nonattainment areas (NAAs) to attainment for the 2006 24-hour fine particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS), and also acted on multiple related State Implementation Plan (SIP) submissions. We also proposed to approve SIP revisions submitted by the State of Utah on January 19, 2017; April 19, 2018; February 4 and 15, 2019; and January 13, May 21, and July 21, 2020. These SIP submissions include revisions to Utah Administrative Code (UAC) Sections R307–110, R307–200, and R307–300 Series; revisions to Utah SIP Sections X.B and E; revisions to Utah SIP Sections IX.H.11, 12, and 13; best available control measures/best available control technologies (BACM/BACT) $PM_{2.5}$ determinations for Salt Lake City and Provo; maintenance plans for the Salt Lake City and Provo areas for $PM_{2.5}$; and the request for redesignation under the 2006 24-hour $PM_{2.5}$ standard. Additionally, the EPA proposed to approve, through parallel processing, a request to remove startup and shutdown emission limits for Kennecott's Power Plant in the Utah SIP and the accompanying R307–110–17 revisions (draft dated October 9, 2020). Due to an administrative error, two supporting documents were left out of the docket during the initial comment period from November 6, 2020 to December 7, 2020. Thus, the EPA is providing an additional 30 days for public comment on these two supporting documents. In this document, we are not requesting comments on any other part of the November 6, 2020 notice of proposed rulemaking. The EPA is taking this action pursuant to the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before May 6, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2020–0098, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

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

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *ostigaard.crystal@epa.gov.*

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

I. What action is the EPA taking?

On November 6, 2020 (85 FR 71023), the EPA proposed to redesignate the Salt Lake City and Provo 2006 24-hour $PM_{2.5}$ NAAs to attainment, and to approve multiple related SIP submissions. We proposed to approve the Governor of Utah's submittal of January 13, 2020, containing revisions to R307–110–10, and the Provo and Salt Lake City 2006 24-hour $PM_{2.5}$ maintenance plans and redesignation requests. We proposed to approve the Governor of Utah's submittal of May 21, 2020, with revisions to R307–110–32, R307–110–35, Utah SIP Section X.B., and Utah SIP Section X.E, which are the inspection and maintenance (I/M) programs for Davis and Weber Counties. We also proposed to approve both maintenance plans' 2035 motor vehicle emission budgets (MVEBs). In addition, we proposed to approve a trading mechanism in each maintenance plan that would allow future increases in on-road mobile sources' direct $PM_{2.5}$ emissions to be offset by future decreases in nitrogen oxide (NO_X) or volatile organic compound (VOC) precursor emissions from on-road mobile sources. We proposed approval of these submissions because the Utah Division of Air Quality (UDAQ) has adequately addressed all of the requirements of the Act for the SIP revisions and the redesignation to attainment applicable to the Provo and Salt Lake City 2006 24-hour $PM_{2.5}$ NAAs. We used the 2017–2019 ambient air quality data from the Provo and Salt Lake City NAAs as the basis for our decision. Upon the effective date of a subsequent final action, the designation status of the Provo and Salt Lake City areas under 40 CFR part 81 will be revised to attainment.

Additionally, we proposed to approve:

- SIP revisions submitted on January 19, 2017 (Utah SIP Section IX.H.13).
- SIP revisions submitted February 15, 2019 (Utah SIP Section IX.H.11 and 12).
- Utah's draft October 9, 2020 submission removing the startup/shutdown emission limits for the Kennecott Power Plant found in Utah SIP Section IX.H.12.i.i.C, and the accompanying R307–110–17 through a parallel process. Utah officially submitted these revisions on December 17, 2020.
- Utah UAC section R307–200 and R307–300 Series revisions and new rules submitted by UDAQ on April 19, 2018, May 21, 2020 and July 21, 2020 (R307–208, R307–230, R307–304, R307–335, R307–343, R307–344, R307–345, R307–346, R307–347, R307–348, R307–349, R307–350, R307–351, R307–352, R307–353, R307–354 and R307–355), which are intended to strengthen the SIP and to serve as BACM for certain area sources for the Utah $PM_{2.5}$ SIP.
- BACM/BACT analyses for area sources, major stationary sources, on-road mobile sources, and non-road mobile sources in the Provo and Salt Lake City 2006 24-hour $PM_{2.5}$ NAAs, submitted on February 4, 2019 and February 15, 2019.

We received multiple comments on the original proposal. A comment submitted on December 7, 2020 by the Sierra Club, Environmental Integrity Project (EIP), and Western Resource Advocates [1] noted that the EPA had neglected to include an amended approval order [2] and the calculation of the banked emission reduction credits [3] for the Kennecott Power Plant in the docket. As the comment noted, these documents were part of the basis for our BACM determination for Units #4 and #5 at the Kennecott Power Plant. Because of this administrative error, the EPA is providing an additional 30 days for public comment on our proposed approval of the State's BACM/BACT determination and Utah's Part H subsection for Kennecott's Power Plant Units #4 and #5. Aside from supplementing the docket with the two inadvertently omitted documents related to the Kennecott Power Plant, we are making no changes to our original November 6, 2020 proposed action. In this document, we are not requesting comments on any other part of the November 6, 2020 notice of proposed rulemaking.

We will address all pertinent comments received on this supplemental action in our final rule, as well as all pertinent comments received during the comment period on the original proposed action.

[1] EPA–R08–OAR–2020–0098–0087.

[2] February 4, 2020; Rio Tinto Kennecott Utah Copper LLC; Approval Order: Administrative Amendment to Approval Order DAQE–AN105720031–15 to Remove Power Plant Boilers, Turbine, and Supporting Equipment. Project Number: N105720040. Available within the docket and at: *https://daqpermitting.utah.gov/DocViewer?IntDocID=117327&contentType=application/pdf.*

[3] February 4, 2020; Rio Tinto Kennecott Utah Copper LLC; Emission Reduction Credits for Rio Tinto Kennecott Utah Copper—Utah Power Plant Project Number: N105720040. Available within the docket and also at: *http://eqedocs.utah.gov* and specifically at: *http://eqedocs.utah.gov/TempEDocsFiles/995158151_995158151_AgencyInterest_10501-10600_10572%20-%20Rio%20Tinto%20Kennecott%20Utah%20Copper%20LLC-%20Power%20Plant%20Lab%20Tailings%20Impoundment_New%20Source%20Review_2020_DAQ-2020-001806.pdf.*

II. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to: R307–110–10; R307–110–17; R307–110–32; R307–110–35; R307–208; R307–230; R307–304; R307–335; R307–343; R307–344; R307–345; R307–346; R307–347; R307–348; R307–349; R307–350; R307–351; R307–352; R307–353; R307–354; R307–355; Utah SIP Section X.B.; Utah SIP Section X.E.; Utah SIP Section IX.H.11, 12, and 13; Utah SIP Section IX.A.27 (Provo 2006 24-hour $PM_{2.5}$ Maintenance Plan); Utah SIP Section IX.A.36 (Salt Lake City 2006 24-hour $PM_{2.5}$ Maintenance Plan); and the redesignation requests for the Provo and Salt Lake City 2006 24-hour $PM_{2.5}$ NAAs to attainment. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FUTHER INFORMATION CONTACT** section of this preamble for more information).

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely

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

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

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

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

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

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

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

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

Dated: March 29, 2021.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2021–06844 Filed 4–5–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210331–0074]

RIN 0648–BK32

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder Fishery; Fishing Year 2021

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes management measures for the 2021 summer flounder recreational fishery. The implementing regulations for this fishery require NMFS to publish recreational measures for the fishing year and to provide an opportunity for public comment. The intent of this action is to constrain recreational catch to the summer flounder recreational harvest limit and thereby prevent overfishing on the summer flounder stock.

DATES: Comments must be received by April 21, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0034, by the following method:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0034 in the Search box. Click on the ''Comment '' icon, complete the required fields, and enter or attach your comments.

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

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281–9116.

SUPPLEMENTARY INFORMATION:

Background

Summer flounder is cooperatively managed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. The Council and the Commission's Summer Flounder Management Board meet jointly each year to recommend recreational management measures for summer flounder. NMFS must implement coastwide measures or approve conservation equivalent measures per 50 CFR 648.102(d) as soon as possible following the Council and Commission's recommendation. This action proposes maintaining conservation equivalency for 2021, as jointly recommended by the Council and Board.

Recreational Management Measures Process

The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) establishes a Monitoring Committee for summer flounder consisting of representatives from the Commission, the Council, state marine fishery agencies from Massachusetts to North Carolina, and NMFS. The FMP's implementing regulations require the Monitoring Committee to review scientific and other relevant information annually. The objective of this review is to recommend management measures to the Council that will constrain landings within the recreational harvest limit (RHL) for the upcoming fishing year. The FMP limits the choices for the types of measures to minimum and/or maximum fish size, per angler possession limit, and fishing season.

The Council and the Board then consider the Monitoring Committee's recommendations and any public comment in making their recommendations. The Council forwards its recommendations to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the target specified for summer flounder in the FMP and with all applicable laws and Executive Orders before ultimately implementing measures for Federal waters. Commission measures are final at the time they are adopted.

Summer Flounder Conservation Equivalency Process

Conservation equivalency, as established by Framework Adjustment 2 (66 FR 36208; July 11, 2001), allows each state to establish its own recreational management measures (possession limits, size limits, and

fishing seasons) to achieve its state management target partitioned by the Commission from the coastwide RHL, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures. Framework Adjustment 6 (71 FR 42315; July 26, 2006) allowed states to form regions for conservation equivalency in order to minimize differences in regulations for anglers fishing in adjacent waters.

The Council and Board annually recommend that either state- or region-specific recreational measures be developed (conservation equivalency) or that coastwide management measures be implemented to ensure that the RHL will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of non-preferred coastwide measures that would apply if conservation equivalency is not approved for use in Federal waters.

When conservation equivalency is recommended, and following confirmation by the Commission that the proposed state or regional measures developed through its technical and policy review processes achieve conservation equivalency, NMFS may waive, for the duration of the fishing year, the permit condition found at 50 CFR 648.4(b), which requires Federal permit holders to comply with the more restrictive management measures when state and Federal measures differ. In such a situation, federally permitted summer flounder charter/party permit holders and individuals fishing for summer flounder in the exclusive economic zone (EEZ) are subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures. Conservation equivilancy expires at the end of each fishing year (December 31).

In addition, the Council and the Board must recommend precautionary default measures when recommending conservation equivalency. The Commission would require adoption of the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee or that submits measures that are not conservationally equivalent to the coastwide measures.

The development of conservation equivalency measures happens at both the Commission and the individual state level. The selection of appropriate data and analytical techniques for technical review of potential state conservation equivalent measures and the process by which the Commission evaluates and recommends proposed conservation equivalent measures are wholly a function of the Commission and its individual member states. Individuals seeking information regarding the process to develop specific state or regional measures or the Commission process for technical evaluation of proposed measures should contact the marine fisheries agency in the state of interest, the Commission, or both.

Once the states and regions select their final 2021 summer flounder management measures through their respective development, analytical, and review processes and submit them to the Commission, the Commission will conduct further review and evaluation of the submitted proposals, ultimately notifying NMFS as to which proposals have been approved or disapproved. NMFS has no overarching authority in the development of state or Commission management measures but is an equal participant in the review process, along with all the member states. NMFS neither approves nor implements individual states' measures, but retains the final authority either to approve or to disapprove the use in Federal waters of conservation equivalency in place of the coastwide measures. NMFS will publish its determination on 2021 conservational equivalency as a final rule in the **Federal Register** following review of the Commission's determination and any public comment on this proposed rule.

2021 Summer Flounder Recreational Management Measures

In a typical year, preliminary catch and effort data through Wave 5 (September–October) are used to evaluate the performance of recreational management measures and propose any changes for the following year to achieve the RHL. However, due to the COVID–19 pandemic, no recreational catch estimates are available for 2020. Nevertheless, regional effort data are available for consideration because the Fishing Effort Survey had no interruption in distribution, and response rates are similar or higher than usual. Preliminary data suggest that effort in 2020 was similar to 2019 effort. In fishing year 2019, recreational summer flounder landings exceeded the RHL by only 1 percent. The 2021 RHL (8.32 million lb, 3,774 mt) is 8 percent higher than the 2019 and 2020 RHLs.

Based on the Council's and the Board's recommendations, and as part of the conservation equivalency process, NMFS also proposes a suite of non-preferred coastwide measures identified by the Council and Board, which would be in effect should NMFS not approve conservation equivalency. These measures are expected to constrain the overall recreational landings to the 2021 recreational harvest limit, should conservation equivalency be disapproved based on the Commission's recommendation letter. For 2021, non-preferred coastwide measures approved by the Council and Board are a 19-inch (48.3-cm) minimum fish size, a 4-fish per person possession limit, and an open season of May 15–September 15. These measures are identical to the non-preferred 2020 coastwide measures. The coastwide measures become the default management measures in the subsequent fishing year, in this case 2022, until the joint process establishes either coastwide or conservation equivalency measures for the next year.

The 2021 precautionary default measures recommended by the Council and Board are identical to those in place for 2020: A 20.0-inch (50.8-cm) minimum fish size; a 2-fish per person possession limit; and an open season of July 1–August 31, 2021. These measures may be assigned by the Commission in the event that conservation equivalency is approved but a state or region does not submit a conservationally equivalent proposal.

Similar to 2016–2020, the 2021 management program adopted by the Commission divides the coastline into six management regions: (1) Massachusetts; (2) Rhode Island; (3) Connecticut and New York; (4) New Jersey; (5) Delaware, Maryland, and Virginia; and (6) North Carolina. Each state within a region must implement identical or equivalent measures (size limit, bag limit, and fishing season length), and the combination of those measures must be sufficient to constrain landings to the RHL.

All state regulations are expected to remain at the status quo from 2020, with the exception of minor changes in New Jersey and Massachusetts. New Jersey is proposing an adjustment to the season to allow for a start date of May 28, 2021, coinciding with the Friday before Memorial Day, as was practiced over the last several years. Massachusetts is considering changing the opening date so that it is a Saturday, consistent with prior years. Saturday, May 15 and Saturday, May 22 are the two Saturday alternatives under consideration. The final combination of state measures will be detailed in a letter from the Commission to the Regional Office certifying that the combination of state and regional measures have met the conservation objectives under Addendum XXXII to the Commission's Interstate FMP and are expected to constrain catch to the 2021 RHL. After

that letter is received, NMFS will publish a final recreational management measures rule with a conservation equivalency determination for 2021.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures. According to the commercial ownership database, 379 for-hire affiliate firms generated revenues from recreational fishing for various species during the 2017–2019 period. All of those business affiliates are categorized as small businesses. The SBA defines a small for-hire recreational fishing business as a firm with receipts of up to $7.5 million. Estimating what proportion of the overall revenues of these for-hire firms came from fishing activities for an individual species is not possible. Nevertheless, given the popularity of summer flounder as a recreational species in the Mid-Atlantic and New England, revenues generated from summer flounder are likely very important for many of these firms at certain times of the year. The 3-year average (2017–2019) combined gross receipts (all for-hire fishing activity combined) for these small entities was $50,625,923, ranging from less than $10,000 for 111 entities (lowest value $85) to over $1,000,000 for 9 entities (highest value $3.1 million).

This proposed action would waive Federal measures in lieu of state measures designed to reach the 2021 harvest limit. The economic impacts of the proposed measures in this action will be affected in part by the specific set of measures implemented at the state level for summer flounder conservation equivalency. The impacts are likely to vary by state, but with two minor exceptions, measures are the same as those in place for 2020. The summer flounder recreational measures under conservation equivalency are expected to neither reduce nor increase recreational satisfaction or for-hire revenues when compared to 2020. Demand for for-hire trips is expected to remain approximately the same as in 2020. Thus, market demand is expected to be similar in 2021, although this is likely to vary by state, depending on each state's current measures and how they choose to modify them in 2021.

Because the 2021 measures are expected to be mostly identical to 2020, this rule will not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required and none has been prepared.

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 31, 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 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.107, revise paragraph (a) introductory text to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2021 are the conservation equivalent of the season, size limits, and possession limit prescribed in §§ 648.104(b), 648.105, and 648.106. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

* * * * *

[FR Doc. 2021–07030 Filed 4–5–21; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 86, No. 64
Tuesday, April 6, 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

Agricultural Marketing Service

[Doc. No. AMS–TM–21–0021]

Notice of Intent To Request To Conduct a New Information Collection—Generic Clearance

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments; new collection.

SUMMARY: This notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB) to conduct a new collection for surveys conducted by the Transportation and Marketing Program Marketing Services Division funded through cooperative agreements with various cooperators (other Federal agencies, State governments, land grant universities, and other organizations). AMS works with universities and other entities to research market access issues related to local and regional food systems. Surveys are a vital tool to help determine where to focus our research, as well as where we should encourage or initiate original research to support the sector. This generic clearance will allow AMS to conduct surveys with cooperating institutions in a timely manner.

DATES: Comments on this notice must be received by June 7, 2021 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice. Comments should be submitted online at *www.regulations.gov* or mailed to La Tasha Thomas, Marketing Services Division, Transportation and Marketing Program, AMS, U.S. Department of Agriculture (USDA), 1400 Independence Ave. SW, Room 1090 South Building, AG STOP 0269, Washington, DC 20250–0269. All comments should be identified with the docket number (AMS–TM–21–0021), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: La Tasha Thomas, Marketing Services Division, Transportation and Marketing Program, AMS, USDA, 1400 Independence Ave. SW, Room 1090 South Building, AG STOP 0269, Washington, DC 20250–0269; Tel. 202–720–8317. Comments should reference Docket No. AMS–TM–21–0021.

SUPPLEMENTARY INFORMATION:

Title: AMS Research Cooperative Agreements Generic Clearance.

OMB Number: 0581–NEW.

Expiration Date of Approval: 3 years from approval.

Type of Request: Intent to seek approval to conduct new information collections.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), AMS is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Marketing Services Division (MSD) within AMS is to research marketing and distribution of U.S. agricultural products. The division identifies marketing challenges and opportunities, researches and provides analysis to help business enterprises, local communities, governments, and other stakeholders take advantage of those opportunities, and also develops, evaluates, and disseminates strategies including methods to diversify and expand direct-marketing farming and producer operations. MSD works to improve market access for producers and develop new markets through three main roles as a researcher, a convener, and a technical assistance provider. In AMS' vision, local food producers, markets, and communities have access to ideas, innovations, and research in order to grow and sustain productive businesses and support community development. Such information ensures that opportunities for U.S. food producers are readily available and communities are equipped to successfully grow and sell regionally produced foods, while also supporting increased access to locally produced foods.

This generic clearance seeks approval for AMS alone or through cooperators to conduct a variety of surveys. The surveys will cover topics such as: Feasibility studies, challenges and opportunities facing local and regional food systems, market access, community development, local, regional and State ordinances, development and expansion of marketing opportunities, food safety, and food access, as well as adjustments to market disruptions (such as the current pandemic restrictions) and logistical impediments. This generic clearance will allow AMS to respond quickly to emerging issues and data collection needs.

This generic clearance is subject to the standard OMB clearance process. Each individual survey is then subject to a clearance process with an abbreviated clearance package which justifies the content of the survey, describes the sample design, provides the timeline for the survey activities, and the questionnaire. The review period for each individual survey is approximately 60 days, including a 30-day **Federal Register** notice period.

Authority

- In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35),
- The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*),
- 7 U.S.C. 1621 Congressional declaration of purpose; use of existing facilities; cooperation with States,
- 7 U.S.C. 1622(a)–(b) 1622. Duties of Secretary relating to agricultural products,
- 7 U.S.C. 1624 Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations,
- 7 U.S.C. 2279g Marketing services; cooperative agreements,
- Grant Programs,
- 7 U.S.C. 1627c Local Agriculture Market Program (LAMP), and
- 7 U.S.C. 1621 Specialty Crop Block Grant Program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15–30 minutes, based on average of 10 surveys per year.

Respondents: Local food stakeholders and researched groups as determined by AMS and cooperators.

Estimated Number of Potential Respondents: 30,000.

Estimated Total Potential Annual Responses to All Surveys: 500.

Maximum Estimated Total Annual Burden on All Respondents: 15,000 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to the following addresses:

- *Mail:* La Tasha Thomas, Marketing Services Division, Transportation and Marketing Programs, AMS, USDA, 1400 Independence Ave. SW, Room 1090 South Building, AG STOP 0269, Washington, DC 20250–0269.
- *Internet: www.regulations.gov.*

All written comments should be identified with the docket number AMS–TM–21–0021. It is our intention to have all comments, whether submitted by mail or internet, available for viewing on the *Regulations.gov* (*www.regulations.gov*) internet site.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–07068 Filed 4–5–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LP–20–0073]

Request for Approval of a New Information Collection for Accounts Payable Information Request

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the U.S. Department of Agriculture (USDA), Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB), for a new information collection used in support of the voluntary grading and certification of meat, meat products, shell eggs, poultry products, rabbit products, and Quality Systems Verification Programs. One new form is introduced in this information collection. The new form, LP–109A requests respondents accounts payable contact information used in facilitating billing administration.

DATES: Submit comments on or before June 7, 2021.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to Quality Assessment Division; Livestock and Poultry Program; AMS, USDA; 1400 Independence Avenue SW, Stop 0258; Washington, DC 20250–0258. All comments should reference the docket number AMS–LP–20–0073, the date of submission, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at *www.regulations.gov* and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Julie Hartley, Branch Chief, Quality Assessment Division (QAD); (202) 720–7316; or email *julie.hartley@usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview of This Information Collection

Agency: USDA, AMS.

Title: Accounts Payable Information Request.

OMB Number: 0581–NEW.

Type of Request: New Information Collection.

Abstract: The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621–1627) directs and authorizes USDA to develop and improve standards of quality, grades, grading programs, and certification services which facilitate the marketing of agricultural products. To provide programs and services, section 203(h) of the AMA (7 U.S.C. 1622(h)) directs and authorizes the Secretary of Agriculture (Secretary) to inspect, certify, and identify the class, quality, quantity, and condition of agricultural products under such rules and regulations as the Secretary may prescribe, including assessment and collection of fees for the cost of service. The regulations in 7 CFR 54, 56, and 70 provide a voluntary program for grading, certification and standards of meats, prepared meats, meat products, shell eggs, poultry products, and rabbit products. The regulation in 7 CFR 62—Quality Systems Verification Programs provides for voluntary, audit-based, user-fee funded programs that allow applicants to have program documentation and program processes assessed by AMS auditor(s) and other USDA officials.

AMS also provides other types of voluntary services under these regulations, including contract and specification acceptance services and verification of product, processing, further processing, temperature, and quantity. Because this is a voluntary program, respondents request or apply for the specific service they wish, and in doing so, they provide information.

To assist AMS billing administration for providing voluntary services, AMS intends to create a new form to request respondents accounts payable contact information. The new form, LP–109A: Accounts Payable Information Request will increase accuracy and efficiency in billing administration by having the applicable contact responsible for receiving billing statements and submitting payment for services rendered.

The information collected is used only by authorized representatives of USDA AMS, Livestock and Poultry Program's QAD national and field staff and is used to administer services requested by respondents.

The information collection requirements in this request are essential to carry out the intent of AMA, to provide the respondents the type of service they request, and to administer the program.

Upon OMB approval of the new Form LP–109A and the information collection package, AMS will request OMB approval to merge the new form and this information collection into the currently approved information collection OMB control number 0581–0128 approved on March 31, 2017.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per response.

Respondents: Livestock, meat, poultry, shell egg industries, or other agricultural enterprises; state or local governments; or other businesses or organizations.

Estimated Number of Respondents: 164.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 164.

Estimated Total Annual Burden on Respondents: 13.66 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record, including any personal information provided.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–07037 Filed 4–5–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 31, 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, Public Law 104–13 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.

Comments regarding these information collections are best assured of having their full effect if received by May 6, 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.

National Agricultural Statistics Service

Title: Commercial Agricultural Expansion Survey.

OMB Control Number: 0535–0264.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue official State and national estimates of crop and livestock production, disposition and prices, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. NASS will conduct a survey of agricultural operations with potential sales of $50,000 or greater in Hawaii. Selected farmers will be asked to provide data on (1) Interest for and reasons for expanding the respondent's commercial agriculture operation, (2) Barriers to expanding the respondent's commercial agricultural operations and respondent's needs to expand, as well as (3) Some basic information about the respondent's operation such as top producing commodities, point of first sale, range for number of employees, etc. General authority for these data collection activities is granted under U.S.C. Title 7, Section 2204. This project is conducted as a cooperative effort with the Hawaii Department of Agriculture. Funding for this survey is being provided by the Hawaii Department of Agriculture.

Need and Use of the Information: The COVID–19 pandemic has renewed Hawaii's efforts to reduce the reliance on imports. The goal of this survey is to assess Hawaii agricultural producers' interest in expanding their commercial production and identify barriers to expansion. The Hawaii Department of Agriculture (HDOA) requested this one-time project to collect this valuable information to assist in their decision-making process when establishing and administering a grant program.

Description of Respondents: A sample of all active agricultural operations with potential sales of $50,000 or greater in Hawaii.

Number of Respondents: 1,150.

Frequency of Responses: Reporting: Once a year.

Total Burden Hours: 346.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–06981 Filed 4–5–21; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 1, 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, Public Law 104–13 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.

Comments regarding these information collections are best assured of having their full effect if received by May 6, 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.

National Agricultural Statistics Service

Title: Field Crops Production—Substantive Change.

OMB Control Number: 0535–0002.

Summary of Collection: General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204 which specifies that ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . .''. The primary objective of the National Agricultural Statistics Service (NASS) is to provide data users with timely and reliable agricultural production and economic statistics, as well as environmental and specialty agricultural related statistics. To accomplish this objective, NASS relies on the use of diverse surveys that show changes within the farming industry over time.

One of the surveys in this Information Collection Request is the Wheat & Barley Variety Survey. The Montana Wheat and Barley Commission reinstated full funding for the survey. As part of that funding, the Montana Wheat and Barley Commission requested NASS collect information on (1) the respondent's primary factor for choosing a variety to plant, (2) the primary agronomic trait, after yield and protein, the respondent uses to determine a variety to plant, and (3) the respondent's overall impression of the profitability and stability of the operation. The additional questions added to the Wheat and Barley Variety Survey will add an additional 1,837 burden hours raising the total for this information collection request to 172,137 hours. The sample size will be increased by 5,300 respondents which increases the total number of respondents to 579,115.

Need and Use of the Information: The additional questions will assist wheat experts in Montana understand what growers in the State expect when choosing which wheat and barley varieties to plant in a given year.

Description of Respondents: Farms and Ranches.

Number of Respondents: 579,115.

Frequency of Responses: Reporting: Varies.

Total Burden Hours: 172,137.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–07086 Filed 4–5–21; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2021–0010]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice is announcing that the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will hold a public meeting of the full Committee on April 22, 2021. The Committee will discuss and vote on adopting the following two reports: Microbiological testing by industry of ready-to-eat foods under FDA's jurisdiction for pathogens (or appropriate indicator organisms): Verification of prevention controls and The Use of Water in Animal Production, Slaughter and Processing.

DATES: The full Committee will hold an open meeting on Thursday, April 22, 2021, from 9:30 a.m. to 12:30 p.m. Submit comments on or before June 7, 2021.

ADDRESSES: The Committee meeting will be held virtually. Attendees must pre-register at *https://ems8.intellor.com?do=register&t=1&p=838073* to receive a join link, dial-in number, access code, and unique Attendee ID for the event.

The NACMCF documents for adoption will be available at *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/federal-register-notices.* FSIS invites interested persons to submit comments on the meeting documents. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2021–0010. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

Agenda: FSIS will finalize an agenda on or before the meeting date and post it on the FSIS web page at *https://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings*

- Please note that the meeting agenda is subject to change due to the time required for reviewing and adopting the reports; thus, sessions could end earlier or later than anticipated. Please plan accordingly if you would like to attend this meeting or participate in the public comment period.

Also, the official transcript of the April 22, 2021 Committee meeting, when it becomes available, will be kept in the FSIS Docket Room and will also be posted on *https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/nacmcf/meetings/nacmcf-meetings.*

The mailing and Email address for the contact person is: Laarina Mullings, USDA, FSIS, Office of Public Health Science, 1400 Independence Avenue SW, Whitten Building Room 341E, Washington, DC 20250; Email: *laarina.mullings@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Persons interested in providing comments at the April 22 plenary session should contact Laarina Mullings: Phone: (202) 720–2644; Email: *laarina.mullings@usda.gov*.

Sign Language Interpretation: Persons requiring a sign language interpreter or other special accommodations should notify Ms. Mullings by April 14, 2021.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established in 1988, in response to a recommendation of the National Academy of Sciences for an interagency approach to microbiological criteria for foods, and in response to a recommendation of the U.S. House of Representatives Committee on Appropriations, as expressed in the Rural Development,

Agriculture, and Related Agencies Appropriation Bill for fiscal year 1988. The charter for the NACMCF is available for viewing on the FSIS internet web page at *https://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/nacmcf/committee-charter.*

The NACMCF provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services on public health issues relative to the safety and wholesomeness of the U.S. food supply, including development of microbiological criteria and review and evaluation of epidemiological and risk assessment data and methodologies for assessing microbiological hazards in foods. The Committee also provides scientific advice and recommendations to the Centers for Disease Control and Prevention and the Departments of Commerce and Defense.

Mrs. Sandra Eskin, Deputy Under Secretary for Food Safety, USDA, is the Acting Committee Chair; Dr. Susan T. Mayne, Director of the Food and Drug Administration's Center for Food Safety and Applied Nutrition (CFSAN), is the Vice-Chair; and Mr. John J. Jarosh, FSIS, is the Director of the NACMCF Secretariat and Designated Federal Officer.

Documents Reviewed by NACMCF

FSIS will make the draft reports considered by NACMCF regarding its deliberations available to the public prior to the Plenary Session on the FSIS web page.

Disclaimer: NACMCF documents and comments posted on the FSIS website are electronic conversions from a variety of source formats. In some cases, document conversion may result in character translation or formatting errors. The original document is the official, legal copy.

In order to meet the electronic and information technology accessibility standards in Section 508 of the Rehabilitation Act, NACMCF may add alternate text descriptors for non-text elements (graphs, charts, tables, multimedia, etc.). These modifications only affect the internet copies of the documents.

Copyrighted documents will not be posted on the FSIS website, but will be available for inspection in the FSIS Docket Room.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Done at Washington, DC, on March 31, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–06993 Filed 4–5–21; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–26–2021]

Foreign-Trade Zone (FTZ) 38—Spartanburg County, South Carolina; Notification of Proposed Production Activity; Black & Decker (U.S.), Inc. (Production and Kitting of Power Tools and Injection Molded Parts); Fort Mill, South Carolina

Black & Decker (U.S.), Inc. (Black & Decker) submitted a notification of proposed production activity to the FTZ Board for its facility in Fort Mill, South Carolina. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 30, 2021.

Black & Decker already has authority for the production and kitting of certain power tools and related components within Subzone 38M. The current request would add finished products and foreign-status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Black & Decker from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below and in the existing scope of authority, Black & Decker would be able to choose the duty rates during customs entry procedures that apply to cable tray cutters, pipe expanders (PEX), cordless staplers, and

plastic molded parts (compressor shrouds, mower shrouds and mower decks) (duty-free). Black & Decker would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components that may be sourced from abroad include: Belt hooks (metal); hex wrenches (metal); tubular rivets (metal); wire channels (plastic channel to hold wires); cable cutter parts (metal): Moving blocks, cutter heads, cutting blocks; cable cutter parts (plastic): Linkage triggers, housing pocket covers; cable cutter transmission parts (metal): Cutter holders, head flanges, shear block supports; stapler magazine parts (metal): Machined magazines, cores, staple pushers, frames, noses, nose covers; stapler magazine hub and cylinder assemblies (metal and plastic); stapler parts (metal): Drive bolts, boot straps, carriages, drivers, lower spring seats, guide rails, U channel lug rails, backdrive pawls, contact trips; stapler parts (plastic): Inner rings, cable guides, wire magazine covers; stapler transmission assembly parts (metal): Lift wheels, drive shaft bushings, front wear plates; PEX expander parts: Expander heads (metal), linkages (metal and plastic); PEX transmission parts (metal): Support plates, spindle cones, collars; transmission parts (metal): Spindle cams, cam and index, piston sleeves; lenses for LED lights; LED light assemblies; and, wire harness assemblies (duty rate ranges from duty-free to 9%). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 17, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: March 31, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–07018 Filed 4–5–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–27–2021]

Foreign-Trade Zone (FTZ) 106—Oklahoma City, Oklahoma; Notification of Proposed Production Activity; Miraclon Corporation (Flexographic/Aluminum Printing Plates and Direct Imaging/Thermo Imaging Layer Film); Weatherford, Oklahoma

Miraclon Corporation (Miraclon) submitted a notification of proposed production activity to the FTZ Board for its facility in Weatherford, Oklahoma. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 17, 2021.

Miraclon already has authority to produce flexographic printing plates, aluminum printing plates, direct imaging film, and thermo imaging layer film within Subzone 106F (originally approved as Eastman Kodak Company). The current request would add a foreign-status material to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Miraclon from customs duty payments on the foreign-status material used in export production. On its domestic sales, for the foreign-status material noted, Miraclon would be able to choose the duty rates during customs entry procedures that apply to flexographic printing plates, aluminum printing plates, direct imaging film, and thermo imaging layer film (duty-free to 3.7%). Miraclon would be able to avoid duty on foreign-status material which becomes scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material sourced from abroad is foam plastic sheets (duty rate, 6.5%). The request indicates that foam plastic sheets are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 17, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: April 1, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–07017 Filed 4–5–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084]

Certain Quartz Surface Products From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Rescission of Administrative Review, in Part; 2018–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain quartz surface products (quartz surface products) from the People's Republic of China (China). The period of review (POR) is November 20, 2018, through June 30, 2020. Commerce preliminarily finds that certain companies made sales of subject merchandise at less than normal value. We are also rescinding this review for nine companies where timely requests for withdrawals were filed by all parties who requested the reviews. Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 6, 2021.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Luberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2185.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2020, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on quartz surface products from China.[1] Commerce

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 39531 (July 1, 2020).

published the notice of initiation on September 3, 2020, with respect to 14 companies.[2] On October 19, 2020, we selected Heshan City Nande Stone Co., Ltd., (Nande Stone) and Xiamen Deyuan Panmin Trading Co., Ltd., (Xiamen Deyuan) for individual examination as the mandatory respondents in this administrative review.[3]

Scope of the Order

The products covered by the order are quartz surface products from China. Imports of subject merchandise are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 6810.99.0010. Subject merchandise may also enter under HTSUS subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.10.50. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[4]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://enforcement.trade.gov/frn/summary/prc/prc-fr.htm.* A list of topics included in the Preliminary Decision Memorandum is provided as an appendix to this notice.

China-Wide Entity

In accordance with Commerce's policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity.[5] Because no party requested a review of the China-wide entity in this review, the entity is not under review, and the entity's rate is not subject to change (*i.e.,* 326.15 percent).[6]

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws their request(s) within 90 days of the publication date of the notice of initiation of the requested review. Between September 18, 2020, and December 2, 2020, parties timely withdrew their requests for an administrative review of Deyuan Stone; Farfield Trade Co., Ltd.; Foshan Adamant Science & Technology Co., Ltd. (Foshan Adamant); Foshan Modern Stone Co., Ltd.; Lanling Jinzhao New Material Co., Ltd.; QJ Quartz Stone Ltd.; Sinostone (Guangdong) Co., Ltd.; Wisdom Stone Co., Ltd.; and Yunfu Honghai Co., Ltd., aka Yunfu Honghai Stone Co., Ltd.[7] Because all requests for reviews of these companies were timely withdrawn, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the AD order on quartz surface products from China with respect to these companies. The review will continue for the remaining five companies for which an administrative review was requested.[8]

Preliminary Results of Review

Commerce finds that the two mandatory respondents, Nande Stone and Xiamen Deyuan, have not established their eligibility for a separate rate because they did not respond to Commerce's request for information[9] and are considered to be part of the China-wide entity for these preliminary results. Further, Deyuan Panmin notified Commerce it would not respond to Commerce's request for information.[10] Accordingly, we find that Deyuan Panmin has not established its eligibility for a separate rate and is considered to be part of the China-wide entity for these preliminary results. Additionally, because Dava Industry and Guangzhou Hercules did not submit separate rate applications or certifications, we preliminarily determine they are ineligible for a separate rate and are part of the China-wide entity. Accordingly, all companies subject to the administrative review are ineligible for a separate rate and are part of the China-wide entity for these preliminary results.

Disclosure and Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[11] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[12] Parties who submit case brief or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 54983 (September 3, 2020).

[3] *See* Memorandum, ''2018–2020 Administrative Review of the Antidumping Duty Order on Certain Quartz Surface Products from the People's Republic of China: Selection of Respondents for Individual Examination,'' dated October 19, 2020.

[4] For a complete description of the Scope of the Order, *see* Memorandum, ''Decision Memorandum for Preliminary Results of the 2018–2020 Antidumping Duty Administrative Review: Certain Quartz Surface Products from the People's Republic of China,'' issued concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[6] The China-wide rate determined in the investigation was 336.69 percent. This rate was adjusted for export subsidies to determine the cash deposit rate (*i.e.,* 326.15 percent) collected for companies in the China-wide entity. *See Certain Quartz Surface Products from the People's Republic of China: Antidumping and Countervailing Duty Orders,* 84 FR 33053, 33054 (July 11, 2019).

[7] *See* Quartz Master LLC's (Quartz Master's) Letter, ''Partial Withdrawal of Request for Administrative Review of the Antidumping Duty Order on Quartz Surface Products from the People's Republic of China,'' dated September 18, 2020; *see also* Quartz Master's Letter, ''Withdrawal of Quartz Master's Remaining Review Requests for Administrative Review of the Antidumping Duty Order on Quartz Surface Products from the People's Republic of China,'' dated December 2, 2020; Foshan Adamant's Letter, ''Foshan Adamant's Withdrawal of Request for Administrative Review of the Antidumping Duty Order on Quartz Surface Products from the People's Republic of China,'' dated December 2, 2020; and National Stoneworks, LLC's Letter, ''Quartz Surface Products from the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated December 2, 2020.

[8] These companies are Xiamen Deyuan; Nande Stone; Dava Industry Co., Ltd. (Dava Industry); Deyuan Panmin International Limited (Deyuan Panmin); and Guangzhou Hercules Quartz Stone Co., Ltd. (Guangzhou Hercules).

[9] *See* Commerce's Letters, ''2018–2020 Administrative Review of the Antidumping Duty Order on Certain Quartz Surface Products from the People's Republic of China: Request for Information''; and ''2018–2020 Administrative Review of the Antidumping Duty Order on Certain Quartz Surface Products from the People's Republic of China: Request for Information,'' both dated Octobers 20, 2020.

[10] *See* Xiamen Deyuan and Deyuan Panmin's Letter, ''Quartz Surface Products from the People's Republic of China—Inability to Respond to Questionnaire,'' dated November 25, 2020.

[11] *See* 19 CFR 351.309(c).

[12] *See* 19 CFR 351.309(d).

authorities.[13] Case and rebuttal briefs should be filed using ACCESS.[14]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of publication of this notice.[15] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[16] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of all issues raised in the case briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[17]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[18] For the final results, if we continue to treat the following companies as part of China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 326.15 percent to all entries of subject merchandise during the POR that were produced and/or exported by those companies: Dava Industry, Deyuan Panmin, Guangzhou Hercules, Nande Stone, and Xiamen Deyuan.

We intend to issue assessment instructions to CBP 35 days after the publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For all previously investigated Chinese and non-Chinese exporters for which a review was not requested and that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published in the most recently-completed segment of this proceeding; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for China-wide entity, 326.15 percent; and (3) for all exporters of subject merchandise that are not located in China and have not received a separate rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(l), 751(a)(3), and 777(i)(l) of the Act and 19 CFR 351.213 and 351.221(b)(4).

Dated: March 30, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2021–07029 Filed 4–5–21; 8:45 am]

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[13] *See* 19 CFR 351.309(c)(2).

[14] *See* 19 CFR 351.303.

[15] *See* 19 CFR 351.310(c).

[16] *See* 19 CFR 351.310(d).

[17] *See* section 751(a)(3)(A) of the Act.

[18] *See* 19 CFR 351.212(b)(1).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051; C–570–052]

Certain Hardwood Plywood Products From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part

AGENCY: Enforcement and Compliance International Trade Administration, Department of Commerce.

SUMMARY: On October 15, 2020, the Department of Commerce (Commerce) received a request for revocation, in part, of the antidumping duty (AD) and countervailing duty (CVD) orders on certain hardwood plywood products (hardwood plywood) from the People's Republic of China (China) with respect to certain finished laminated veneer lumber (LVL) door stiles and rails. We preliminary determine to revoke, in part, the *Orders* with respect to these products. Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 6, 2021.

FOR FURTHER INFORMATION CONTACT: Nicolas Mayora, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3053.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2018, Commerce published the AD and CVD orders on hardwood plywood from China.[1] On October 15, 2020, the Coalition for Fair Trade in Hardwood Plywood (the petitioner) requested that Commerce initiate changed circumstances reviews (CCRs) to revoke, in part, the *Orders* with respect to certain LVL door stiles and rails, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b).[2]

[1] *See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 83 FR 504 (January 4, 2018); and *Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order,* 83 FR 513 (January 4, 2018) (collectively, the *Orders*).

[2] *See* Petitioner's Letter, ''Hardwood Plywood Products from the People's Republic of China: Request for Changed Circumstances Review and Partial Revocation,'' dated October 15, 2020 (CCR Request); Commerce's Letter, ''Clarification of Changed Circumstances Review and Partial Revocation Request,'' dated November 12, 2020; Commerce's Letter, ''Clarification of Changed

On February 9, 2021, we published the *Initiation Notice* for these CCRs in the **Federal Register**.[3] We invited interested parties to submit comments concerning industry support for the revocation, in part, of the *Orders,* as well as comments and/or factual information regarding these CCRs. We also invited interested parties to comment on whether any of their entries are covered by the revocation request but enjoined from liquidation due to an injunction issued in ongoing litigation. On February 19, 2020, we received comments on behalf of importer MJB Wood Group LLC (MJB) agreeing with the proposed revocation and confirming that it had no such entries.[4] We received no further comments on the *Initiation Notice.*

Scope of the Orders

The merchandise covered by these *Orders* is hardwood plywood from China. For a complete description of the scope of the *Orders, see* the appendix to this notice.

Scope of the CCRs

The petitioner requests that Commerce revoke the *Orders,* in part, to exclude from the scope door stiles and rails made of LVL that have a width not to exceed 50 millimeters, a thickness not to exceed 50 millimeters, and a length of less than 2,450 millimeters.

Preliminary Results of the CCRs and Intent To Revoke the Orders, in Part

Pursuant to section 751(d)(1) of the Act, and 19 CFR 351.222(g), Commerce may revoke an order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a CCR). Section 751(b)(1) of the Act requires a CCR to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives Commerce the authority to revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. Section 351.222(g) of Commerce's regulations provides that Commerce will conduct a CCR of an AD or CVD order under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) Producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Thus, both the Act and Commerce's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for Commerce to revoke the order, in whole or in part.[5] In its administrative practice, Commerce has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[6]

The petitioner submitted a statement of lack of interest in the continued application of the *Orders* with respect to certain LVL door stiles and rails and requested that Commerce conduct these CCRs on an expedited basis.[7] Commerce's regulations do not specify a deadline for the issuance of preliminary results of a CCR but provide that Commerce will issue the final results of the review within 270 days after the date on which the CCR is initiated, or within 45 days if all parties to the proceeding agree to the outcome of the review.[8] Commerce did not issue a combined notice of initiation and preliminary results because the record was unclear as to whether the petitioner accounts for substantially all domestic production of hardwood plywood.[9] Thus, Commerce did not determine in the *Initiation Notice* whether producers accounting for substantially all of the production of the domestic like product lacked interest. Instead, we invited interested parties to submit comments concerning domestic industry support with respect to the requested partial revocation of the *Orders.*[10] Although Commerce received comments from MJB in response to initiation of these CCRs, the comments did not address the issue of domestic industry support.[11] Commerce, therefore, received no comments on industry support. As a result, we find that the domestic industry has expressed no opposition with respect to the proposed revocation, in part, of the *Orders.*

In light of the petitioner's statement of lack of interest, and the absence of comments from any interested party addressing the issue of domestic industry support, we preliminarily conclude that producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to LVL door stiles and rails. Thus, we preliminarily determine that changed circumstances warrant revocation of the *Orders,* in part, with respect to certain LVL door stiles and rails.

The petitioner requested that partial revocation of the *Orders* be applied retroactively to June 23, 2017, and April 25, 2017, for the AD and CVD orders, respectively, *i.e.,* the dates of the preliminary determinations in the AD and CVD investigations.[12] The petitioner also requested that Commerce instruct U.S. Customs and Border Protection (CBP) to discontinue the suspension of liquidation for imports subject to the CCR Request and entered, or withdrawn from warehouse, for consumption before June 12, 2020, and to liquidate all such entries without regard to duties.[13]

Section 751(d)(3) of the Act provides that ''{a} determination under this section to revoke an order . . . shall apply with respect to unliquidated entries of the subject merchandise which entered, or withdrawn from warehouse, for consumption on or after the date determined by the administering authority.'' Consistently, Commerce's general practice is to instruct CBP to liquidate without regard to AD and CVD duties, and to refund any estimated deposits of those duties, on all unliquidated entries of the merchandise covered by a revocation that are not covered by the final results of an administrative review or automatic liquidation.[14] Commerce has exercised

Circumstances Review and Partial Revocation Request,'' dated November 17, 2020; and Petitioner's Letter, ''Hardwood Plywood Products from the People's Republic of China: Response to Clarification of Changed Circumstances Review and Partial Revocation Request,'' dated December 10, 2020.

[3] *See Certain Hardwood Plywood Products from the People's Republic of China: Initiation of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews,* 86 FR 8766 (February 9, 2021) (*Initiation Notice*).

[4] *See* MJB's Letter, ''Changed Circumstances Reviews of Hardwood Plywood Products from the People's Republic of China: Comments on Initiation Notice,'' dated February 19, 2021 (MJB Letter).

[5] *See* Section 782(h) of the Act and 19 CFR 351.222(g).

[6] *See, e.g., Supercalendered Paper from Canada: Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order,* 83 FR 32268 (July 12, 2018).

[7] *See* CCR Request at II.

[8] *See* 19 CFR 351.216 (e).

[9] *See Initiation Notice.*

[10] *Id.,* 86 FR at 8767.

[11] *See* MJB Letter.

[12] *See* CCR Request at 8.

[13] *Id.* The petitioner does not explain how this request is consistent with its request that Commerce revoke the *Orders* retroactive to 2017, however.

[14] *See, e.g., Certain Pasta from Italy: Final Results of Countervailing Duty Changed Circumstances Review and Revocation, In Part,* 76 FR 27634 (May 12, 2011); *Stainless Steel Bar from the United Kingdom: Notice of Final Results of Changed Circumstances Review and Revocation of Order, in Part,* 72 FR 65706 (November 23, 2007); *Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation of Order In Part: Certain Corrosion-Resistant Carbon Steel Flat Products from Germany,* 71 FR 66163 (November 13, 2006); *Notice of Final Results of Antidumping Duty Changed Circumstances Reviews and*

Continued

its discretion and deviated from this general practice if the particular facts of the case have implications for the effective date of the partial revocation selected by Commerce.[15]

If we make a final determination to revoke the *Orders,* in part, Commerce intends to apply these determinations to each order as follows. Because we have completed administrative reviews of the *Orders,* the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the CCRs that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the *Orders,* and which are not covered by automatic liquidation (*i.e.,* January 1, 2020).

Public Comment

Interested parties are invited to comment on these preliminary results in accordance with 19 CFR 351.309(c)(1)(ii). Written comments may be submitted to Commerce no later than 14 days after the date of publication of these preliminary results. Rebuttal comments, limited to issues raised in such comments, may be filed with Commerce no later than seven days after the comments are filed.[16] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[17] All submissions must be filed electronically using the Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* An electronically-filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the due date set forth in this notice.

Final Results of the Changed Circumstances Reviews

Commerce will issue its final results of these CCRs, which will include its analysis of any written comments, no later than 270 days after the date on which these reviews were initiated. If, in the final results of these reviews, Commerce continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct CBP to liquidate without regard to AD or CVD duties, and to refund any deposits of estimated AD and CVD duties, on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or automatic liquidation. The current requirement for cash deposit of estimated AD and CVD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these CCRs.

Notification to Interested Parties

These preliminary results of review are being issued and published in accordance with sections 751(b) and 777(i) of the Act, and 19 CFR 315.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: March 30, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Orders

The merchandise subject to these *Orders* is hardwood and decorative plywood, and certain veneered panels as described below. For purposes of this proceeding, hardwood and decorative plywood is defined as a generally flat, multilayered plywood or other veneered panel, consisting of two or more layers or plies of wood veneers and a core, with the face and/or back veneer made of non-coniferous wood (hardwood) or bamboo. The veneers, along with the core may be glued or otherwise bonded together. Hardwood and decorative plywood may include products that meet the American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP–1–2016 (including any revisions to that standard).

For purposes of this proceeding a ''veneer'' is a slice of wood regardless of thickness which is cut, sliced or sawed from a log, bolt, or flitch. The face and back veneers are the outermost veneer of wood on either side of the core irrespective of additional surface coatings or covers as described below.

The core of hardwood and decorative plywood consists of the layer or layers of one or more material(s) that are situated between the face and back veneers. The core may be composed of a range of materials, including but not limited to hardwood, softwood, particleboard, or medium-density fiberboard (MDF).

All hardwood plywood is included within the scope of these *Orders* regardless of whether or not the face and/or back veneers are surface coated or covered and whether or not such surface coating(s) or covers obscures the grain, textures, or markings of the wood. Examples of surface coatings and covers include, but are not limited to: Ultra violet light cured polyurethanes; oil or oil-modified or water based polyurethanes; wax; epoxy-ester finishes; moisture-cured urethanes; paints; stains; paper; aluminum; high pressure laminate; MDF; medium density overlay (MDO); and phenolic film. Additionally, the face veneer of hardwood plywood may be sanded; smoothed or given a ''distressed'' appearance through such methods as hand-scraping or wire brushing. All hardwood plywood is included within the scope even if it is trimmed; cut-to-size; notched; punched; drilled; or has underwent other forms of minor processing.

All hardwood and decorative plywood is included within the scope of these *Orders,* without regard to dimension (overall thickness, thickness of face veneer, thickness of back veneer, thickness of core, thickness of inner veneers, width, or length). However, the most common panel sizes of hardwood and decorative plywood are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches).

Subject merchandise also includes hardwood and decorative plywood that has been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, or any other processing that would not otherwise remove the merchandise from the scope of the *Orders* if performed in the country of manufacture of the in-scope product.

The scope of the *Orders* excludes the following items: (1) Structural plywood (also known as ''industrial plywood'' or ''industrial panels'') that is manufactured to meet U.S. Products Standard PS 1–09, PS 2–09, or PS 2–10 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), and which has both a face and a back veneer of coniferous wood; (2) products which have a face and back veneer of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People's Republic of China, Import Administration, International Trade Administration. *See Multilayered Wood Flooring from the People's Republic of China,* 76 FR 76690 (December 8, 2011) (amended final determination of sales at less than fair value and antidumping duty order), and *Multilayered Wood Flooring from the People's Republic of China,* 76 FR 76693 (December 8, 2011) (countervailing duty order), as amended by *Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders,* 77 FR 5484 (February 3, 2012); (4) multilayered wood flooring with a face

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Revocation of Orders in Part: Certain Corrosion-Resistant Carbon Steel Flat Products from Canada and Germany, 71 FR 14498 (March 22, 2006); and *Notice of Final Results of Antidumping Duty Changed Circumstances Review, and Determination to Revoke Order in Part: Certain Cased Pencils from the People's Republic of China,* 68 FR 62428 (November 4, 2003).

[15] *See* section 751(d)(3) of the Act; and *Itochu Building Products* v. *United States,* Court No. 11–00208, Slip Op. 14–37 (CIT 2014) *(Itochu Bldg. Prod)* (CIT April 8, 2014) at 12 (''The statutory provision, as discussed above, provides Commerce with discretion in the selection of the effective date for a partial revocation following a changed circumstances review, but that discretion may not be exercised arbitrarily so as to decide the question presented without considering the relevant and competing considerations'').

[16] Submissions of rebuttal factual information must comply with 19 CFR 351.301(b)(2); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[17] *See Temporary Rule.*

veneer of bamboo or composed entirely of bamboo; (5) plywood which has a shape or design other than a flat panel, with the exception of any minor processing described above; (6) products made entirely from bamboo and adhesives (also known as ''solid bamboo''); and (7) Phenolic Film Faced Plyform (PFF), also known as Phenolic Surface Film Plywood (PSF), defined as a panel with an ''Exterior'' or ''Exposure 1'' bond classification as is defined by The Engineered Wood Association, having an opaque phenolic film layer with a weight equal to or greater than 90g/m3 permanently bonded on both the face and back veneers and an opaque, moisture resistant coating applied to the edges.

Excluded from the scope of these Orders are wooden furniture goods that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of these *Orders* is ''ready to assemble'' (RTA) furniture. RTA furniture is defined as (A) furniture packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of furniture, (2) all accessory parts (*e.g.,* screws, washers, dowels, nails, handles, knobs, adhesive glues) required to assemble a finished unit of furniture, and (3) instructions providing guidance on the assembly of a finished unit of furniture; (B) unassembled bathroom vanity cabinets, having a space for one or more sinks, that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional component shape/size, painted or stained prior to importation, and stacked within a singled shipping package, except for furniture feet which may be packed and shipped separately; or (C) unassembled bathroom vanity linen closets that are imported with all unassembled hardwood and hardwood plywood components that have been cut-to-final dimensional shape/size, painted or stained prior to importation, and stacked within a single shipping package, except for furniture feet which may be packed and shipped separately.

Excluded from the scope of these *Orders* are kitchen cabinets that, at the time of importation, are fully assembled and are ready for their intended uses. Also excluded from the scope of these *Orders* are RTA kitchen cabinets. RTA kitchen cabinets are defined as kitchen cabinets packaged for sale for ultimate purchase by an end-user that, at the time of importation, includes (1) all wooden components (in finished form) required to assemble a finished unit of cabinetry, (2) all accessory parts (*e.g.,* screws, washers, dowels, nails, handles, knobs, hooks, adhesive glues) required to assemble a finished unit of cabinetry, and (3) instructions providing guidance on the assembly of a finished unit of cabinetry.

Excluded from the scope of these *Orders* are finished table tops, which are table tops imported in finished form with pre-cut or drilled openings to attach the underframe or legs. The table tops are ready for use at the time of import and require no further finishing or processing.

Excluded from the scope of these *Orders* are finished countertops that are imported in finished form and require no further finishing or manufacturing.

Excluded from the scope of these *Orders* are laminated veneer lumber door and window components with (1) a maximum width of 44 millimeters, a thickness from 30 millimeters to 72 millimeters, and a length of less than 2413 millimeters (2) water boiling point exterior adhesive, (3) a modulus of elasticity of 1,500,000 pounds per square inch or higher, (4) finger-jointed or lap-jointed core veneer with all layers oriented so that the grain is running parallel or with no more than 3 dispersed layers of veneer oriented with the grain running perpendicular to the other layers; and (5) top layer machined with a curved edge and one or more profile channels throughout.

Imports of hardwood plywood are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.0620; 4412.31.0640; 4412.31.0660; 4412.31.2510; 4412.31.2520; 4412.31.2610; 4412.31.2620; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4075; 4412.31.4080; 4412.31.4140; 4412.31.4150; 4412.31.4160; 4412.31.4180; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.5235; 4412.31.5255; 4412.31.5265; 4412.31.5275; 4412.31.6000; 4412.31.6100; 4412.31.9100; 4412.31.9200; 4412.32.0520; 4412.32.0540; 4412.32.0565; 4412.32.0570; 4412.32.0620; 4412.32.0640; 4412.32.0670; 4412.32.2510; 4412.32.2525; 4412.32.2530; 4412.32.2610; 4412.32.2630; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5600; 4412.32.3235; 4412.32.3255; 4412.32.3265; 4412.32.3275; 4412.32.3285; 4412.32.5700; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3141; 4412.94.3161; 4412.94.3175; 4412.94.4100; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5115; and 4412.99.5710.

Imports of hardwood plywood may also enter under HTSUS subheadings 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.10.9000; 4412.94.5100; 4412.94.9500; and 4412.99.9500. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

[FR Doc. 2021–06994 Filed 4–5–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA966]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Chevron Richmond Refinery Long Wharf Maintenance and Efficiency Project in San Francisco Bay, California

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

ACTION: Notice; proposed issuance of an Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received a request from Chevron Products Company (Chevron) for an incidental harassment authorization (IHA), that would cover a subset of the take authorized in IHAs previously issued to Chevron, to incidentally take marine mammals, by Level B harassment only, during construction activities associated with the Chevron Richmond Refinery Long Wharf Maintenance and Efficiency Project (LWMEP) in San Francisco Bay, California. However, some changes have occurred during this year's evaluation of the project. Hydroacoustic monitoring data has led to changes in source levels and other noise generating criteria that affect Level A and Level B harassment and shutdown zones. The local abundance for one population has increased. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible 1 year renewal IHA that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 6, 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.Meadows@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: Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application, 2019 and 2020 IHAs, and supporting documents (including NMFS **Federal Register** notices of the earlier proposed and final authorizations, and the previous IHAs), 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.

National Environmental Policy Act

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

This action is consistent with categories of activities identified in Categorical Exclusion B4 IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

History of Request

On February 1, 2018, NMFS received a request from Chevron for an IHA to take marine mammals incidental to pile driving and pile removal associated with the LWMEP in San Francisco Bay, California. An IHA was issued on May 31, 2018 (83 FR 27548, June 13, 2018). Chevron was unable to complete all of the planned work and was issued a second IHA on June 1, 2019 (84 FR 28474, June 19, 2019) and when the work was again not completed a Renewal IHA was issued on June 11, 2020 (85 FR 37064; June 19, 2020). Chevron was again unable to complete the work in 2020 and on February 24, 2021 requested a new IHA to authorize take of marine mammals for the subset of the initially planned work that could not be completed. The application was deemed adequate and complete on March 22, 2021. Chevron requested the new IHA be effective from June 1, 2021 through May 31, 2022. Chevron does not qualify for an additional renewal IHA, but given the proposed work is a subset of that which has been previously analyzed, we will be referencing the prior authorization except where activities or analysis have changed as described below.

Description of the Specified Activities and Anticipated Impacts

As described in the 2018, 2019 and 2020 IHAs, Chevron is upgrading Long Wharf to comply with current Marine Oil Terminal Engineering and Maintenance Standards and in order to accept more modern, fuel efficient vessels. The remaining work includes installing four new standoff fenders and removing obsolete piles at Berth 2 and installing four new dolphins and removing temporary piles associated with the prior work at Berth 4. Remaining construction at Long Wharf includes vibratory pile installation of 52 14-inch composite piles, vibratory removal of 150 piles (eight 36-inch steel piles, 36 14-inch steel H piles, and 106 16-inch timber piles) and impact installation of nine 24-inch concrete piles (Table 1). Note some pile sizes were described with various diameters in prior notifications (*e.g.,* the composite piles are tapered and their diameter ranges from 12 to 14 inches and they are now described by their widest diameter) but there is no change to actual planned piles. The activities consist of 36 days of in-water work. Pile driving and removal activities will continue to occur within the standard NMFS work windows for Endangered Species Act (ESA)-listed fish species (June 1 through November 30).

Vibratory pile removal and installation and impact pile installation will introduce underwater sounds that may result in take, by Level B harassment, of seven species of marine mammals in San Francisco Bay. This IHA proposes to authorize the remaining take associated with the work not completed under the prior IHAs. The H piles and 36-inch piles were not part of the 2020 renewal IHA but were part of earlier IHAs for this project. The H-piles were noted as temporary piles in the 2018 IHA application although Chevron was in the process of determining the permitting requirements to leave these fender piles in place. In the 2019 IHA application Chevron had included the 36-inch piles as temporary and listed the activities as installation and removal. The piles were installed in 2019. Chevron had been considering leaving the 36-inch piles in place as well. Chevron has since

reconsidered leaving any of the temporary piles in place and has decided to remove the H-piles at Berth 2 and the 36-inch piles at Berth 4. Therefore, removal of these piles is included in the 2021 application.

The prior IHAs included Level A harassment take associated with installation of larger piles that has since been completed, therefore no Level A harassment take is requested or proposed for this IHA. The earlier proposed and final IHA documents, monitoring report, and public comments can be found on our project web page at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-old-sitka-dock-north-dolphins-expansion-project-sitka-alaska.*

Detailed Description of the Activity

A detailed description of the demolition and construction activities for which take is proposed here may be found in the notices of the proposed and final IHAs for the 2018, 2019 and 2020 IHAs. The location, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices.

As part of the prior authorizations Chevron was required to conduct hydroacoustic monitoring of their pile driving. Based on this monitoring Chevron has applied updated estimates of strikes per pile to drive 24-inch concrete piles and source levels and transmission loss coefficients for multiple pile sizes. Below we update our analysis and the Level A and Level B harassment isopleths and shutdown zones based on these new data.

TABLE 1—PILE DRIVING DETAILS FOR WORK REMAINING TO BE COMPLETED

Pile type and number per day	Pile driver type	Number of piles	Number of driving days	Strikes/pile	Time/pile (min)
36-inch steel pipe pile (4/day)	Vibratory removal	8	2	N/A	5
14-inch H pile removal (6/day)	Vibratory removal	36	6	N/A	5
24-inch concrete (1–2/day)	Impact install	9	8	440	20
14-inch composite (5/day)	Vibratory install	52	11	N/A	10
16-inch timber pile (12/day)	Vibratory removal	106	9	N/A	6.67

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 notices of the proposed and final IHAs for the 2019 and 2020 authorization. NMFS has reviewed the monitoring data from the 2020 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 2019 and 2020 IHAs.

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 notices of the proposed and final IHAs for the 2018 authorization. NMFS has reviewed the monitoring data from the 2019 and 2020 IHAs, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that, besides the revised source information harbor seal occurrence mentioned above and analyzed below, 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 and inputs used to estimate take for the specified activity are found in the notice of the final 2018 and 2019 IHAs. As noted above, hydroacoustic monitoring from prior years has changed the source levels, transmission loss coefficients, time and strikes to drive piles for various of the pile sizes. Instead of referencing prior discussions of these topics we provide complete details of the pile driving parameters used to compute the Level A and Level B harassment isopleths for this proposed IHA in Tables 1 and 2. Based on these revised inputs the Level A and Level B harassment isopleth radii from the NMFS User Spreadsheet are shown for all pile sizes in Tables 2 and 3.

TABLE 2—PILE DRIVING SOURCE LEVELS AND CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS

[Sound source reference in italics]

Pile type and sound source reference	Transmission loss coefficient	Source levels at 10 meters (dB) unless noted		Distance to Level A threshold (meters)				
		Peak	RMS/SEL	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Attenuated Impact Driving (with bubble curtain):								
24-inch square concrete (*2018 acoustic monitoring*).	15	191	161 SEL	31	1	37	17	1
Vibratory Driving/Extraction:								
14-inch Composite Barrier Pile (*Laughlin 2012*).	15	178	168 RMS	18	2	26	11	1
36-inch steel pipe pile (*2019 acoustic monitoring*).	20	196	167 RMS @15 m.	13	2	17	9	1
14-inch H pile (*2018 acoustic monitoring*).	20	165	150 RMS	2	1	2	1	1
16-inch timber pile (*WSDOT 2011*).	15	N/A	152 RMS	2	1	3	1	1

Notes: SEL = sound exposure level, RMS = Root Mean Square.

TABLE 3—DISTANCES TO LEVEL B THRESHOLDS AND SIZE OF THE LEVEL B HARASSMENT ZONE FOR EACH PILE TYPE

Pile type	Level B harassment isopleth (meters)	Area of Level B zone (square kilometers)
Attenuated Impact Driving (with bubble curtain):		
24-inch square concrete	74	0.01
Vibratory Driving/Extraction:		
14-inch Composite	15,849	26.5
36-inch steel pipe	*3,358	4.04
14-inch H	*316	0.05
16-inch timber	1,359	0.9

* Using transmission loss coefficient and source levels from hydroacoustic monitoring.

The stocks taken, methods of take, and types of take remain unchanged from the previously issued IHAs. The only change to the marine mammal density/occurrence data used to calculate take is an increase in harbor seal abundance at the Castro Rocks haulout. Castro Rocks are part of the survey area for long-term National Park Service (NPS) monitoring studies of harbor seal colonies within the Golden Gate National Recreation Area that have been conducted since 1976. The take estimates for this stock for this project have been based on the highest mean plus the standard error of harbor seals observed at Castro Rocks during recent annual surveys conducted by the NPS during the molting season. Based on the most recent surveys (Codde 2020, Codde and Allen 2020) and using the methods from the prior IHAs, the current daily abundance for use in calculating take of this stock would increase to 376 seals. However, given the prior monitoring results, the smaller pile sizes left to be driven or removed, and their location and distance from Castro Rocks, we are reverting to our more common practice of using the mean abundance estimate to estimate take. The mean using the most recent data is 237 animals per day (an increase from 176). Therefore, Level B harassment take for this stock is the estimated daily abundance in the project area (237) times the number of days of in-water work (36), resulting in a proposed authorization for Level B harassment of 8,532 harbor seals. Because the Level A harassment zones are small and we believe the Protected Species Observers (PSOs) will be able to effectively monitor the Level A harassment zones and implement shutdowns, we do not propose to authorize take by Level A harassment for this or any other stock.

For the remaining species take is estimated as follows (using the same criteria as prior IHAs). It is possible that a lone northern elephant seal may enter the Level B Harassment area once every 3 days during pile driving, resulting in a proposed authorization for Level B harassment of 12 northern elephant seals. While no northern fur seals have been observed in the 2018–2020 monitoring for this project, the incidence of northern fur seal in San Francisco Bay depends largely on oceanic conditions, with animals more likely to occur during El Niño events. As in prior IHAs, we propose authorization for Level B harassment of 10 northern fur seals. While no bottlenose dolphins have been observed in the 2018–2020 monitoring for this project, this species occurs intermittently in San Francisco Bay. As in prior IHAs, we propose authorization for Level B harassment of 30 bottlenose dolphins. Gray whales occasionally enter San Francisco Bay, and as in prior IHAs, we propose authorization for Level B harassment of 2 gray whales. Estimated Level B harassment take for California sea lions and harbor porpoises for this project has been based on densities of those stocks in the vicinity of the project. The estimated densities for these species have not changed from prior IHAs (0.16 and 0.17 animals per square kilometer, respectively). The only factors that have changed are the days of work for each pile type and the areas of the Level B harassment zones (see Tables 1 and 3 above, respectively).

Based on the above discussion, the only changes to the number of proposed takes, which are indicated below in Table 4, is to account for the increased occurrence of harbor seals and the area and days of work remaining to be completed.

TABLE 4—ESTIMATED TAKE BY LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Scientific name	Stock	Level B harassment	Percent of stock
Harbor seal	*Phoca vitulina*	California	8,532	1.6
Harbor porpoise	*Phocoena phocoena*	San Francisco—Russian River	327	4.4
California sea lion	*Zalophus californianus*	U.S	308	<0.1
Northern elephant seal	*Mirounga angustirostris*	California Breeding	12	<0.1
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	2	<0.1
Northern fur seal	*Callorhinus ursinus*	California	10	<0.1
Bottlenose Dolphin	*Tursiops truncatus*	California Coastal	30	6.6

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 2020 IHA, except for the changes to the shutdown zones discussed above and shown in Table 5 and updated language we have developed for our typical measures. The location of the PSOs has changed eliminating some of the prior concerns about visibility towards Castro Rocks as the work locations for the remaining work at berth 4 are off to the north side of the wharf. Because the mitigation measures have not increased, the discussion of the least practicable adverse impact included in in the

Federal Register notice announcing the issuance of the 2019 IHA remains accurate. The following measures are proposed for this authorization:

- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant Chevron staff prior to the start of all pile driving activity and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;
- Avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;
- Implement the shutdown zones indicated in Table 5;
- Employ PSOs and establish monitoring locations as described in the Marine Mammal Monitoring Plan and Section 5 of the IHA. For all pile driving locations two PSOs must be used, with a minimum of one PSO assigned to each active pile driving location to monitor the shutdown zones. During work at Berth 2, PSOs will be stationed on the east and west edges of the Long Wharf. The PSO on the east has 180 degree views from the Long Wharf, north, south and east toward the shore and would have views of Castro Rocks. The PSO on the west would have 180 degree views, north to south, with views of San Francisco Bay to the west. During work at Berth 4, one PSO would be stationed on the east side of the wharf, just south of Berth 4 on an elevated viewpoint. This position allows clear views of the work area and shutdown zones, and views of the waters to the east and west of Long Wharf. A second PSO would be stationed on the mooring dolphin at the north end of the Long Wharf. This location provides a view of the work area and shutdown zones from the north as well as a clear view of Castro Rocks and areas to the east and west;
- The placement of PSOs during all pile driving and removal and drilling activities will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected;
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine the shutdown zones clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made;
- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal;
- Chevron must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer;
- Use a bubble curtain during impact pile driving of 24-inch concrete piles and must ensure that it is operated as necessary to achieve optimal performance, and that no reduction in performance may be attributable to faulty deployment. At a minimum, the Holder must adhere to the following performance standards: The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column. The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent substrate contact. No parts of the ring or other objects shall prevent full substrate contact. Air flow to the bubblers must be balanced around the circumference of the pile;
- Conduct sound source level measurements during driving of a minimum of two 14-inch composite piles;
- Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following: PSOs must be independent (*i.e.,* not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization. PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.
- PSOs must record all observations of marine mammals as described in the Monitoring Plan, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed;
- The marine mammal and acoustic monitoring reports must contain the informational elements described in the Monitoring Plan;
- A draft marine mammal monitoring report, and PSO datasheets and/or raw sighting data, must be submitted to NMFS within 90 calendar days after the completion of pile driving activities. If no comments are received from NMFS within 30 calendar days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 calendar days after receipt of comments; and
- In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.MonitoringReports@noaa.gov*), NMFS and to West Coast Regional Stranding Coordinator as soon as feasible.

TABLE 5—SHUTDOWN ZONES BY MARINE MAMMAL HEARING GROUP, PILE SIZE, AND METHOD

Pile type	Radial distance of shutdown zone (meters)				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Attenuated Impact Driving (with bubble curtain):					
24-inch square concrete	40	10	40	20	10
Vibratory Driving/Extraction:					
14-inch Composite	20	10	30	20	10
36-inch steel pipe pile	20	10	20	10	10
14-inch H pile	10	10	10	10	10
16-inch timber	10	10	10	10	10

Preliminary Determinations

The action in this IHA is identical to the action in the 2020 IHA except that sound isopleths have decreased for a number of sources, harbor seal daily rate of take has increased, and the mitigation and monitoring measures have been updated to our new language. As described in the notice of issuance of the 2020 final IHA (85 FR 37064, June 19, 2020) we found that Chevron's construction activities would have a negligible impact and that the taking would be small relative to population size. For this analysis of the new IHA we found that marine mammal stock abundance was still estimated to be the same as for the 2020 IHA. Other marine mammal information and the potential effects were identical to the 2020 IHA except for the increase in the daily abundance of harbor seals. The estimated take was calculated identically to the 2020 IHA, except for harbor seals, and zone sizes decreased for a number of pile sizes. The increased daily abundance and take of harbor seals still involves far less than 10 percent of the stock (Table 4). Mitigation and monitoring are identical to the 2020 IHA except for the decrease in Level A harassment and shutdown zones for many pile types and the change in standard language, which has no substantive effect on our analysis.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the 2020 IHA. This includes consideration of the estimated abundance of harbor seals increasing, the change in harassment and shutdown zones, and the updating of IHA language for mitigation and monitoring.

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 proposed authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the proposed authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Chevron'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 West Coast Region, Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Chevron for conducting the LWMEP in San Francisco Bay, CA from June 1, 2021 through May 31, 2022, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses (included in both this document and the referenced documents supporting the prior IHAs), the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed construction activity at Long Wharf. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a one-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of the Specified Activities and Anticipated Impacts section of this notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts s section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in this notice, provided all of the following conditions are met:

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

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

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do

not indicate impacts of a scale or nature not previously analyzed or authorized.

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

Dated: April 1, 2021.

Catherine Marzin,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA948]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Off of New Jersey

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

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

SUMMARY: NMFS has received a request from Ocean Wind, LLC (Ocean Wind) for authorization to take marine mammals incidental to marine site characterization surveys off of New Jersey in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf Lease Area OCS–A 0498 and potential export cable routes to landfall locations in New Jersey. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 6, 2021.

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

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

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

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

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

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which NMFS have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

NMFS will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On December 11, 2020, NMFS received a request from Ocean Wind for an IHA to take marine mammals incidental to marine site characterization surveys off of New Jersey in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf Lease Area OCS–A 0498 (Lease Area) and potential export cable routes (ECRs) to landfall locations in New Jersey. Following NMFS review of the draft application, a revised version was submitted on February 23, 2021. That revised version was deemed adequate and complete on March 9, 2020. Ocean Wind's request is for take

of 16 species of marine mammals, by Level B harassment only. Neither Ocean Wind nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to Ocean Wind for similar work in the same geographic area on June 8, 2017 (82 FR 31562; July 7, 2017) with effective dates from June 8, 2017, through June 7, 2018. Ocean Wind complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA.

Description of Proposed Activity

Overview

As part of its overall marine site characterization survey operations, Ocean Wind proposes to conduct high-resolution geophysical (HRG) surveys in the Lease Area and along potential ECRs to landfall locations in New Jersey.

The purpose of the marine site characterization surveys are to obtain an assessment of seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions within the footprint of a planned offshore wind facility development. Surveys are also conducted to support engineering design and to map unexploded ordnance. Underwater sound resulting from Ocean Wind's proposed site characterization survey activities, specifically HRG surveys, has the potential to result in incidental take of marine mammals in the form of Level B behavioral harassment.

Dates and Duration

The estimated duration of HRG survey activity is expected to be up to 275 survey days over the course of a single year, with a ''survey day'' defined as a 24-hour (hr) activity period. Ocean Wind proposes to start survey activity as soon as possible in spring 2021. The IHA would be effective for one year from the date of issuance.

This schedule is based on 24-hr operations and includes potential down time due to inclement weather. Although some shallow-water locations may be surveyed by smaller vessels that would operate during daylight hours only, the estimated total number of survey days assumes uniform 24-hr operations. The number of estimated survey days varies between the Lease Area and ECR area, with 142 vessel survey days expected in the Lease Area and 133 vessel survey days in the ECR area.

Specific Geographic Region

The proposed survey activities will occur within the Project Area which includes the Lease Area and potential ECRs, as shown in Figure 1. The Lease Area is approximately 649 square kilometers (km^2) and is within the Bureau of Ocean Energy Management's New Jersey Wind Energy Area (WEA). Water depths in the Lease Area range from 15 meters (m) to 35 m, and the potential ECRs extend from the shoreline to approximately 40 m depth.

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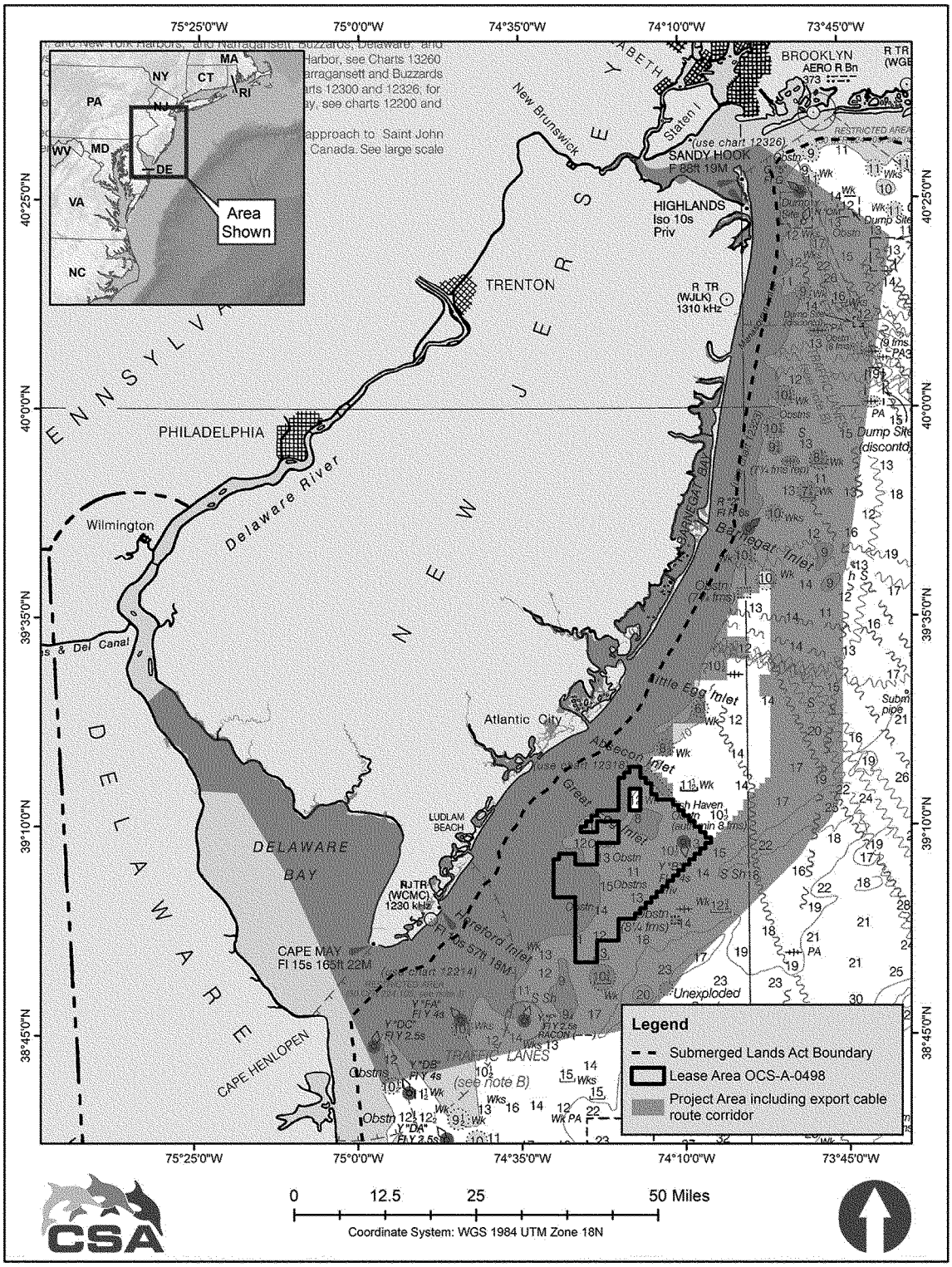

Figure 1—Site Characterization Survey Location, Including the Lease Area and Potential ECRs

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Detailed Description of Specific Activity

Ocean Wind proposes to conduct HRG survey operations, including multibeam depth sounding, seafloor imaging, and shallow and medium penetration sub-bottom profiling. The HRG surveys may be conducted using any or all of the following equipment types: Side scan sonar, multibeam echosounder, magnetometers and gradiometers, parametric sub-bottom profiler (SBP), CHIRP SBP, boomers, or sparkers. Ocean Wind assumes that

HRG survey operations would be conducted 24 hours per day, with an assumed daily survey distance of 70 km. Vessels would generally conduct survey effort at a transit speed of approximately 4 knots (kn), which equates to 110 km per 24-hr period. However, based on past survey experience (*i.e.,* knowledge of typical daily downtime due to weather, system malfunctions, etc.) Ocean Wind assumes 70 km as the average daily distance. On this basis, a total of 275 survey days (142 survey days in the Lease Area and 133 survey days in the ECR area) are expected. In certain shallow-water areas, vessels may conduct survey effort during daylight hours only, with a corresponding assumption that the daily survey distance would be halved (35 km). However, for purposes of analysis all survey days are assumed to cover the maximum 70 km. A maximum of two vessels would operate concurrently in areas where 24-hr operations would be conducted, with an additional third vessel potentially conducting daylight-only survey effort in shallow-water areas.

Acoustic sources planned for use during HRG survey activities proposed by Ocean Wind include the following:

- Shallow penetration, non-impulsive, non-parametric SBPs (*i.e.,* CHIRP SBPs) are used to map the near-surface stratigraphy (top 0 to 10 m) of sediment below seabed. A CHIRP system emits signals covering a frequency sweep from approximately 2 to 20 kHz over time. The frequency range can be adjusted to meet project variables. These sources are typically mounted on a pole rather than towed, reducing the likelihood that an animal would be exposed to the signal.
- Medium penetration, impulsive sources (*i.e.,* boomers and sparkers) are used to map deeper subsurface stratigraphy. A boomer is a broadband source operating in the 3.5 Hz to 10 kHz frequency range. Sparkers create omnidirectional acoustic pulses from 50 Hz to 4 kHz. These sources are typically towed behind the vessel.

Operation of the following survey equipment types is not expected to present reasonable risk of marine mammal take, and will not be discussed further beyond the brief summaries provided below.

- Non-impulsive, parametric SBPs are used for providing high data density in sub-bottom profiles that are typically required for cable routes, very shallow water, and archaeological surveys. These sources generate short, very narrow-beam (1° to 3.5°) signals at high frequencies (generally around 85–100 kHz). The narrow beamwidth significantly reduces the potential that a marine mammal could be exposed to the signal, while the high frequency of operation means that the signal is rapidly attenuated in seawater. These sources are typically deployed on a pole rather than towed behind the vessel.
- Acoustic corers are seabed-mounted sources with three distinct sound sources: A high-frequency parametric sonar, a high-frequency CHIRP sonar, and a low-frequency CHIRP sonar. The beamwidth is narrow (3.5° to 8°) and the source is operated roughly 3.5 m above the seabed with the transducer pointed directly downward.
- Ultra-short baseline (USBL) positioning systems are used to provide high accuracy ranges by measuring the time between the acoustic pulses transmitted by the vessel transceiver and a transponder (or beacon) necessary to produce the acoustic profile. It is a two-component system with a pole-mounted transceiver and one or several transponders mounted on other survey equipment. USBLs are expected to produce extremely small acoustic propagation distances in their typical operating configuration.
- Multibeam echosounders (MBESs) are used to determine water depths and general bottom topography. The proposed MBESs all have operating frequencies >180 kHz and are therefore outside the general hearing range of marine mammals.
- Side scan sonars (SSS) are used for seabed sediment classification purposes and to identify natural and man-made acoustic targets on the seafloor. The proposed SSSs all have operating frequencies >180 kHz and are therefore outside the general hearing range of marine mammals.

Table 1 identifies representative survey equipment with the expected potential to result in exposure of marine mammals and potentially result in take. The make and model of the listed geophysical equipment may vary depending on availability and the final equipment choices will vary depending upon the final survey design, vessel availability, and survey contractor selection.

TABLE 1—SUMMARY OF REPRESENTATIVE HRG EQUIPMENT

Equipment	Operating frequency (kHz)	SL_{rms} (dB re 1 µPa m)	$SL_{0\text{-}pk}$ (dB re 1 µPa m)	Pulse duration (width) (millisecond)	Repetition rate (Hz)	Beamwidth (degrees)	CF = Crocker and Fratantonio (2016) MAN = manufacturer
Non-parametric shallow penetration SBPs (non-impulsive)							
ET 216 (2000DS or 3200 top unit)	2–16 2–8	195	-	20	6	24	MAN.
ET 424	4–24	176	-	3.4	2	71	CF.
ET 512	0.7–12	179	-	9	8	80	CF.
GeoPulse 5430A	2–17	196	-	50	10	55	MAN.
Teledyne Benthos Chirp III—TTV 170	2–7	197	-	60	15	100	MAN.
Medium penetration SBPs (impulsive)							
AA, Dura-spark UHD (400 tips, 500 J)[1]	0.3–1.2	203	211	1.1	4	Omni	CF.
AA, triple plate S-Boom (700–1,000 J)[2]	0.1–5	205	211	0.6	4	80	CF.

- = not applicable; µPa = micropascal; AA = Applied Acoustics; dB = decibel; ET = EdgeTech; J = joule; Omni = omnidirectional source; re = referenced to; PK = zero-to-peak sound pressure level; SL = source level; SPL = root-mean-square sound pressure level; UHD = ultra-high definition.

[1] The Dura-spark measurements and specifications provided in Crocker and Fratantonio (2016) were used for all sparker systems proposed for the survey. These include variants of the Dura-spark sparker system and various configurations of the GeoMarine Geo-Source sparker system. The data provided in Crocker and Fratantonio (2016) represent the most applicable data for similar sparker systems with comparable operating methods and settings when manufacturer or other reliable measurements are not available.

[2] Crocker and Fratantonio (2016) provide S-Boom measurements using two different power sources (CSP–D700 and CSP–N). The CSP–D700 power source was used in the 700 J measurements but not in the 1,000 J measurements. The CSP–N source was measured for both 700 J and 1,000 J operations but resulted in a lower SL; therefore, the single maximum SL value was used for both operational levels of the S-Boom.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.fisheries.noaa.gov/find-species*).

Table 2 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, NMFS follows the Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or would be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic and Gulf of Mexico SARs. All values presented in Table 2 are the most recent available at the time of publication and are available in the 2019 SARs (Hayes *et al.,* 2020) and draft 2020 SARS, available at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*.

TABLE 2—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT AREA THAT MAY BE AFFECTED BY OCEAN WIND'S ACTIVITY

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
North Atlantic right whale	*Eubalaena glacialis*	Western North Atlantic (WNA).	E/D; Y	412 (0; 408; 2018)	0.8	18.6
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-/-; Y	1,393 (0.15; 1,375; 2016)	22	58
Fin whale	*Balaenoptera physalus*	WNA	E/D; Y	6,802 (0.24; 5,573; 2016)	11	2.35
Sei whale	*Balaenoptera borealis*	Nova Scotia	E/D; Y	6,292 (1.02; 3,098; 2016)	6.2	1.2
Minke whale	*Balaenoptera acutorostrata*	Canadian East Coast	-/-; N	21,968 (0.31; 17,002; 2016)	170	10.6
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	*Physeter macrocephalus*	North Atlantic	E/D; Y	4,349 (0.28;3,451; 2016)	3.9	0
Family Delphinidae:						
Long-finned pilot whale	*Globicephala melas*	WNA	-/-; N	39,215 (0.30; 30,627; 2016)	306	21
Short finned pilot whale	*Globicephala macrorhynchus.*	WNA	-/-; N	28,924 (0.24; 23,637; 2016)	236	160
Bottlenose dolphin	*Tursiops truncatus*	WNA Offshore	-/-; N	62,851 (0.23; 51,914; 2016)	519	28
		WNA Northern Migratory Coastal.	-/D;Y	6,639 (0.41, 4,759, 2016)	48	12.2–21.5
Common dolphin	*Delphinus delphis*	WNA	-/-; N	172,974 (0.21; 145,216; 2016)	1,452	399
Atlantic white-sided dolphin	*Lagenorhynchus acutus*	WNA	-/-; N	93,233 (0.71; 54,443; 2016)	544	26
Atlantic spotted dolphin	*Stenella frontalis*	WNA	-/-; N	39,921 (0.27; 32,032; 2016)	320	0
Risso's dolphin	*Grampus griseus*	WNA	-/-; N	35,493 (0.19; 30,289; 2016)	303	54.3
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy.	-/-; N	95,543 (0.31; 74,034; 2016)	851	217
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Gray seal [4]	*Halichoerus grypus*	WNA	-/-; N	27,131 (0.19; 23,158, 2016)	1,389	4,729
Harbor seal	*Phoca vitulina*	WNA	-/-; N	75,834 (0.15; 66,884, 2012)	2,006	350

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike).

[4] NMFS' stock abundance estimate (and associated PBR value) applies to U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,431. The annual M/SI value given is for the total stock.

As indicated above, all 16 species (with 17 managed stocks) in Table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. In addition to what is included in Sections 3 and 4 of the application, the SARs, and NMFS' website, further detail informing the baseline for select species (*i.e.,* information regarding current Unusual Mortality Events (UME) and important habitat areas) is provided below.

North Atlantic Right Whale

Elevated North Atlantic right whale mortalities have occurred since June 7, 2017, along the U.S. and Canadian coast. This event has been declared an Unusual Mortality Event (UME), with human interactions, including entanglement in fixed fishing gear and vessel strikes, implicated in at least 15 of the mortalities thus far. As of March 12, 2021, a total of 34 confirmed dead stranded whales (21 in Canada; 13 in the United States) have been documented. The cumulative total number of animals in the North Atlantic right whale UME has been updated to 49 individuals to include both the confirmed mortalities (dead stranded or floaters) (n=34) and seriously injured free-swimming whales (n=15) to better reflect the confirmed number of whales likely removed from the population during the UME and more accurately reflect the population impacts. More information is available online at: *www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-north-atlantic-right-whale-unusual-mortality-event*.

The proposed survey area is part of a migratory corridor Biologically Important Area (BIA) for North Atlantic right whales (effective March–April and November–December) that extends from Massachusetts to Florida (LeBrecque *et al.,* 2015). Off the coast of New Jersey, the migratory BIA extends from the coast to beyond the shelf break. This important migratory area is approximately 269,488 km^2 in size (compared with the approximately 5,500 km^2 of total estimated Level B harassment ensonified area associated with the 275 planned survey days) and is comprised of the waters of the continental shelf offshore the East Coast of the United States, extending from Florida through Massachusetts. NMFS' regulations at 50 CFR part 224.105 designated nearshore waters of the Mid-Atlantic Bight as Mid-Atlantic U.S. Seasonal Management Areas (SMA) for right whales in 2008. SMAs were developed to reduce the threat of collisions between ships and right whales around their migratory route and calving grounds. A portion of one SMA, which occurs off the mouth of Delaware Bay, overlaps spatially with a section of the proposed survey area. The SMA which occurs off the mouth of Delaware Bay is active from November 1 through April 30 of each year.

Humpback Whale

NMFS recently evaluated the status of the species, and on September 8, 2016, NMFS divided the species into 14 distinct population segments (DPS), removed the species-level listing, and in its place listed four DPSs as endangered and one DPS as threatened (81 FR 62260; September 8, 2016). The remaining nine DPSs were not listed. The West Indies DPS, which is not listed under the ESA, is the only DPS of humpback whale that is expected to occur in the survey area. Bettridge *et al.* (2015) estimated the size of this population at 12,312 (95 percent CI 8,688–15,954) whales in 2004–05, which is consistent with previous population estimates of approximately 10,000–11,000 whales (Stevick *et al.,* 2003; Smith *et al.,* 1999) and the increasing trend for the West Indies DPS (Bettridge *et al.,* 2015). Whales occurring in the survey area are considered to be from the West Indies DPS, but are not necessarily from the Gulf of Maine feeding population managed as a stock by NMFS. Barco *et al.,* 2002 estimated that, based on photo-identification, only 39 percent of individual humpback whales observed along the mid- and south Atlantic U.S. coast are from the Gulf of Maine stock.

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine to Florida. Partial or full necropsy examinations have been conducted on approximately half of the 147 known cases (as of March 8, 2021). Of the whales examined, about 50 percent had evidence of human interaction, either ship strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. NOAA is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. More information is available at: *www.fisheries.noaa.gov/national/marine-life-distress/2016-2021-humpback-whale-unusual-mortality-event-along-atlantic-coast*.

Minke Whale

Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina, with a total of 105 strandings (as of March 8, 2021). This event has been declared a UME. Full or partial necropsy examinations were conducted on more than 60 percent of the whales. Preliminary findings in several of the whales have shown evidence of human interactions or infectious disease, but these findings are not consistent across all of the whales examined, so more research is needed. More information is available at: *www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-minke-whale-unusual-mortality-event-along-atlantic-coast*.

Seals

Since July 2018, elevated numbers of harbor seal and gray seal mortalities have occurred across Maine, New Hampshire and Massachusetts. This event has been declared a UME. Additionally, stranded seals have shown clinical signs as far south as Virginia, although not in elevated numbers, therefore the UME investigation now encompasses all seal strandings from Maine to Virginia. Ice seals (harp and hooded seals) have also started stranding with clinical signs, again not in elevated numbers, and those two seal species have also been added to the UME investigation. A total of 3,152 reported strandings (of all species) had occurred from July 1, 2018, through March 13, 2020. Full or partial necropsy examinations have been conducted on some of the seals and samples have been collected for testing. Based on tests conducted thus far, the main pathogen found in the seals is phocine distemper virus. NMFS is performing additional testing to identify any other factors that may be involved in this UME. Information on this UME is available online at: *www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018-2020-pinniped-unusual-mortality-event-along*.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,*

Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Sixteen marine mammal species (14 cetacean and 2 pinniped (both phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, five are classified as low-frequency cetaceans (*i.e.,* all mysticete species), eight are classified as mid-frequency cetaceans (*i.e.,* all delphinid species and the sperm whale), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary of the ways that Ocean Wind's specified activity may impact marine mammals and their habitat. Detailed descriptions of the potential effects of similar specified activities have been provided in other recent **Federal Register** notices, including for survey activities using the same methodology, over a similar amount of time, and occurring within the same specified geographical region (*e.g.,* 82 FR 20563, May 3, 2017; 85 FR 36537, June 17, 2020; 85 FR 37848, June 24, 2020; 85 FR 48179, August 10, 2020). No significant new information is available, and we refer the reader to these documents rather than repeating the details here. The Estimated Take section includes a quantitative analysis of the number of individuals that are expected to be taken by Ocean Wind's activity. The Negligible Impact Analysis and Determination section considers the potential effects of the specified activity, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Background on Active Acoustic Sound Sources and Acoustic Terminology

This subsection contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to the summary of the potential effects of the specified activity on marine mammals. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude. Therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory

cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy in a stated frequency band over a stated time interval or event and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for sound produced by the pile driving activity considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Sparkers and boomers produce pulsed signals with energy in the frequency ranges specified in Table 1. The amplitude of the acoustic wave emitted from sparker sources is equal in all directions (*i.e.,* omnidirectional), while other sources planned for use during the proposed surveys have some degree of directionality to the beam, as specified in Table 1. Other sources planned for use during the proposed survey activity (*e.g.,* CHIRP SBPs) should be considered non-pulsed, intermittent sources.

Summary on Specific Potential Effects of Acoustic Sound Sources

Underwater sound from active acoustic sources can include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking. The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully

recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007).

Animals in the vicinity of Ocean Wind's proposed HRG survey activity are unlikely to incur even TTS due to the characteristics of the sound sources, which include relatively low source levels (176 to 205 dB re 1 µPa-m) and generally very short pulses and potential duration of exposure. These characteristics mean that instantaneous exposure is unlikely to cause TTS, as it is unlikely that exposure would occur close enough to the vessel for received levels to exceed peak pressure TTS criteria, and that the cumulative duration of exposure would be insufficient to exceed cumulative sound exposure level (SEL) criteria. Even for high-frequency cetacean species (*e.g.,* harbor porpoises), which have the greatest sensitivity to potential TTS, individuals would have to make a very close approach and also remain very close to vessels operating these sources in order to receive multiple exposures at relatively high levels, as would be necessary to cause TTS. Intermittent exposures—as would occur due to the brief, transient signals produced by these sources—require a higher cumulative SEL to induce TTS than would continuous exposures of the same duration (*i.e.,* intermittent exposure results in lower levels of TTS). Moreover, most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range. Further, the restricted beam shape of many of HRG survey devices planned for use (Table 1) makes it unlikely that an animal would be exposed more than briefly during the passage of the vessel.

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal.

In addition, sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. Marine mammal communications would not likely be masked appreciably by the acoustic signals signals given the directionality of the signals for most HRG survey equipment types planned for use (Table 1) and the brief period when an individual mammal is likely to be exposed.

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton) (*i.e.,* effects to marine mammal habitat). Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. The most likely impacts (if any) for most prey species in a given area would be temporary avoidance of the area. Surveys using active acoustic sound sources move through an area relatively quickly, limiting exposure to multiple pulses. In all cases, sound levels would return to ambient once a survey ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly. Finally, the HRG survey equipment will not have significant impacts to the seafloor and does not represent a source of pollution.

Vessel Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. These interactions are typically associated with large whales, which are less maneuverable than are smaller cetaceans or pinnipeds in relation to large vessels. Ship strikes generally involve commercial shipping vessels, which are generally larger and of which there is much more traffic in the ocean than geophysical survey vessels. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4–5 knots. At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are so low as to be discountable. At average transit speed for geophysical survey vessels, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again low given the smaller size of these vessels and generally slower speeds. Notably in the Jensen and Silber study, no strike incidents were reported for geophysical survey vessels during that time period.

The potential effects of Ocean Wind's specified survey activity are expected to be limited to Level B behavioral harassment. No permanent or temporary auditory effects, or significant impacts to marine mammal habitat, including prey, are expected.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to noise from certain HRG acoustic sources. Based primarily on the characteristics of the signals

produced by the acoustic sources planned for use, Level A harassment is neither anticipated (even absent mitigation), nor proposed to be authorized. Consideration of the anticipated effectiveness of the mitigation measures (*i.e.,* exclusion zones and shutdown measures), discussed in detail below in the Proposed Mitigation section, further strengthens the conclusion that Level A harassment is not a reasonably anticipated outcome of the survey activity. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimates.

Acoustic Thresholds

NMFS uses acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007; Ellison *et al.,* 2012). NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals may be behaviorally harassed (*i.e.,* Level B harassment) when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 µPa (rms) for the impulsive sources (*i.e.,* boomers, sparkers) and non-impulsive, intermittent sources (*e.g.,* CHIRP SBPs) evaluated here for Ocean Wind's proposed activity.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). For more information, see NMFS' 2018 Technical Guidance, which may be accessed at *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

Ocean Wind's proposed activity includes the use of impulsive (*i.e.,* sparkers and boomers) and non-impulsive (*e.g.,* CHIRP SBP) sources. However, as discussed above, NMFS has concluded that Level A harassment is not a reasonably likely outcome for marine mammals exposed to noise through use of the sources proposed for use here, and the potential for Level A harassment is not evaluated further in this document. Please see Ocean Wind's application for details of a quantitative exposure analysis exercise, *i.e.,* calculated Level A harassment isopleths and estimated Level A harassment exposures. Maximum estimated Level A harassment isopleths were less than 5 m for all sources and hearing groups with the exception of an estimated 37 m zone calculated for high-frequency cetaceans during use of the GeoPulse 5430 CHIRP SBP (see Table 1 for source characteristics). Ocean Wind did not request authorization of take by Level A harassment, and no take by Level A harassment is proposed for authorization by NMFS.

Ensonified Area

NMFS has developed a user-friendly methodology for estimating the extent of the Level B harassment isopleths associated with relevant HRG survey equipment (NMFS, 2020). This methodology incorporates frequency and directionality to refine estimated ensonified zones. For acoustic sources that operate with different beamwidths, the maximum beamwidth was used, and the lowest frequency of the source was used when calculating the frequency-dependent absorption coefficient (Table 1).

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG equipment and, therefore, recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to harassment thresholds. In cases when the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends that either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 1 shows the HRG equipment types that may be used during the proposed surveys and the source levels associated with those HRG equipment types.

Results of modeling using the methodology described above indicated that, of the HRG survey equipment planned for use by Ocean Wind that has the potential to result in Level B harassment of marine mammals, the Applied Acoustics Dura-Spark UHD and GeoMarine Geo-Source sparkers would produce the largest Level B harassment isopleth (141 m; please see Table 4 of Ocean Wind's application). Estimated Level B harassment isopleths associated with the boomer and CHIRP SBP systems planned for use are estimated as 34 and 48 m, respectively. Although Ocean Wind does not expect to use sparker sources on all planned survey days, it proposes to assume for purposes of analysis that the sparker would be used on all survey days. This is a conservative approach, as the actual sources used on individual survey days may produce smaller harassment distances.

Marine Mammal Occurrence

In this section, NMFS provides information about the presence, density, or group dynamics of marine mammals that informs the take calculations.

Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.,* 2016, 2017, 2018, 2020) represent the best available information regarding marine mammal densities in the survey area. The density data presented by Roberts *et al.* (2016, 2017, 2018, 2020) incorporates aerial and shipboard line-transect survey data from NMFS and other organizations and incorporates data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size,

availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.,* 2016). In subsequent years, certain models have been updated based on additional data as well as certain methodological improvements. More information is available online at *seamap.env.duke.edu/models/Duke-EC-GOM-2015/*. Marine mammal density estimates in the survey area (animals/km^2) were obtained using the most recent model results for all taxa (Roberts *et al.,* 2016, 2017, 2018, 2020). The updated models incorporate additional sighting data, including sightings from NOAA's Atlantic Marine Assessment Program for Protected Species (AMAPPS) surveys.

For the exposure analysis, density data from Roberts *et al.* (2016, 2017, 2018, 2020) were mapped using a geographic information system (GIS). Density grid cells that included any portion of the proposed survey area were selected for all survey months (see Figure 3 in Ocean Wind's application).

Densities from each of the selected density blocks were averaged for each month available to provide monthly density estimates for each species (when available based on the temporal resolution of the model products), along with the average annual density. Please see Tables 7 and 8 of Ocean Wind's application for density values used in the exposure estimation process for the Lease Area and the potential ECRs, respectively. Note that no density estimates are available for the portion of the ECR area in Delaware Bay, so the marine mammal densities from the density models of Roberts *et al.* were assumed to apply to this area. Additional data regarding average group sizes from survey effort in the region was considered to ensure adequate take estimates are evaluated.

Take Calculation and Estimation

Here NMFS describes how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to Level B harassment thresholds are calculated, as described above. The maximum distance (*i.e.,* 141 m distance associated with sparkers) to the Level B harassment criterion and the estimated trackline distance traveled per day by a given survey vessel (*i.e.,* 70 km) are then used to calculate the daily ensonified area, or zone of influence (ZOI) around the survey vessel.

The ZOI is a representation of the maximum extent of the ensonified area around a sound source over a 24-hr period. The ZOI for each piece of equipment operating below 200 kHz was calculated per the following formula:

$$ZOI = (Distance/day \times 2r) + \pi r^2$$

Where r is the linear distance from the source to the harassment isopleth.

ZOIs associated with all sources with the expected potential to cause take of marine mammals are provided in Table 6 of Ocean Wind's application. The largest daily ZOI (19.8 km^2), associated with the various sparkers proposed for use, was applied to all planned survey days.

Potential Level B harassment exposures are estimated by multiplying the average annual density of each species within either the Lease Area or potential ECR area by the daily ZOI. That product is then multiplied by the number of operating days expected for the survey in each area assessed, and the product is rounded to the nearest whole number. These results are shown in Table 4.

TABLE 4—SUMMARY OF TAKE NUMBERS PROPOSED FOR AUTHORIZATION

Species	Abundance	Level B harassment takes [1]	Max percent population
North Atlantic right whale	412	9	2.18
Fin whale	6,802	6	0.09
Sei whale	6,292	0 (1)	0.02
Minke whale	21,968	2	0.01
Humpback whale	1,393	2	0.14
Sperm whale [3]	4,349	0 (3)	0.07
Atlantic white-sided dolphin	93,233	16	0.02
Atlantic spotted dolphin	39,921	3	0.01
Common bottlenose dolphin: [2]			
Offshore Stock	62,851	262	0.42
Migratory Stock	6,639	1,410	21.24
Pilot Whales: [3]			
Short-finned pilot whale	28,924	2	0.01
Long-finned pilot whale	39,215	2	0.01
Risso's dolphin	35,493	0 (30)	0.08
Common dolphin	172,974	124	0.07
Harbor porpoise	95,543	91	0.10
Seals: [4]			
Gray seal	451,431	11	0.00
Harbor seal	75,834	11	0.01

[1] Parentheses denote proposed take authorization where different from calculated take estimates. Increases from calculated values are based on assumed average group size for the species; sei whale, Kenney and Vigness-Raposa, 2010; sperm whale and Risso's dolphin, Barkaszi and Kelly, 2018.

[2] Roberts *et al.* (2016) does not provide density estimates for individual stocks of common bottlenose dolphins; therefore, stock densities were delineated using the 20-m isobath. Coastal migratory stock dolphins are assumed to occur inshore of this line and offshore stock dolphins are assumed to occur offshore of this line.

[3] Roberts (2018) only provides density estimates for pilot whales as a guild. The pilot whale density values were applied to both species of pilot whale; therefore, the total take number proposed for authorization for pilot whales (4) is double the estimated take number for the guild.

[4] Roberts (2018) only provides density estimates for seals without differentiating by species. Harbor seals and gray seals are assumed to occur equally; therefore, density values were split evenly between the two species, *i.e.,* total estimated take for ''seals'' is 22.

The take numbers shown in Table 4 are those requested by Ocean Wind. NMFS concurs with the requested take numbers and proposes to authorize them. Previous monitoring data compiled by Ocean Wind (available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-ocean-wind-marine-site-characterization-surveys-offshore-new*) suggests that the proposed take numbers for authorization are sufficient.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

Mitigation for Marine Mammals and Their Habitat

NMFS proposes the following mitigation measures be implemented during Ocean Wind's proposed marine site characterization surveys.

Marine Mammal Exclusion Zones and Harassment Zones

Marine mammal exclusion zones (EZ) would be established around the HRG survey equipment and monitored by protected species observers (PSOs):

- 500 m EZ for North Atlantic right whales during use of all acoustic sources.
- 100 m EZ for all marine mammals, with certain exceptions specified below, during operation of impulsive acoustic sources (boomer and/or sparker).

If a marine mammal is detected approaching or entering the EZs during the HRG survey, the vessel operator would adhere to the shutdown procedures described below to minimize noise impacts on the animals. These stated requirements will be included in the site-specific training to be provided to the survey team.

Pre-Clearance of the Exclusion Zones

Ocean Wind would implement a 30-minute pre-clearance period of the exclusion zones prior to the initiation of ramp-up of HRG equipment. During this period, the exclusion zone will be monitored by the PSOs, using the appropriate visual technology. Ramp-up may not be initiated if any marine mammal(s) is within its respective exclusion zone. If a marine mammal is observed within an exclusion zone during the pre-clearance period, ramp-up may not begin until the animal(s) has been observed exiting its respective exclusion zone or until an additional time period has elapsed with no further sighting (*i.e.,* 15 minutes for small odontocetes and seals, and 30 minutes for all other species).

Ramp-Up of Survey Equipment

When technically feasible, a ramp-up procedure would be used for HRG survey equipment capable of adjusting energy levels at the start or restart of survey activities. The ramp-up procedure would be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the survey area by allowing them to vacate the area prior to the commencement of survey equipment operation at full power.

A ramp-up would begin with the powering up of the smallest acoustic HRG equipment at its lowest practical power output appropriate for the survey. When technically feasible, the power would then be gradually turned up and other acoustic sources would be added.

Ramp-up activities will be delayed if a marine mammal(s) enters its respective exclusion zone. Ramp-up will continue if the animal has been observed exiting its respective exclusion zone or until an additional time period has elapsed with no further sighting (*i.e,* 15 minutes for small odontocetes and seals and 30 minutes for all other species).

Activation of survey equipment through ramp-up procedures may not occur when visual observation of the pre-clearance zone is not expected to be effective (*i.e.,* during inclement conditions such as heavy rain or fog).

Shutdown Procedures

An immediate shutdown of the impulsive HRG survey equipment would be required if a marine mammal is sighted entering or within its respective exclusion zone. The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement between the Lead PSO and vessel operator should be discussed only after shutdown has occurred. Subsequent restart of the survey equipment can be initiated if the animal has been observed exiting its respective exclusion zone or until an additional time period has elapsed (*i.e.,* 30 minutes for all other species).

If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (48 m, non-impulsive; 141 m impulsive), shutdown would occur.

If the acoustic source is shut down for reasons other than mitigation (*e.g.,* mechanical difficulty) for less than 30 minutes, it may be activated again without ramp-up if PSOs have maintained constant observation and no detections of any marine mammal have occurred within the respective exclusion zones. If the acoustic source is shut down for a period longer than 30 minutes and PSOs have maintained constant observation, then pre-clearance and ramp-up procedures will be initiated as described in the previous section.

The shutdown requirement would be waived for small delphinids of the following genera: *Delphinus, Lagenorhynchus, Stenella,* and *Tursiops* and seals. Specifically, if a delphinid from the specified genera or a pinniped is visually detected approaching the vessel (*i.e.,* to bow ride) or towed equipment, shutdown is not required. Furthermore, if there is uncertainty regarding identification of a marine mammal species (*i.e.,* whether the

observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgement in making the decision to call for a shutdown. Additionally, shutdown is required if a delphinid or pinniped detected in the exclusion zone and belongs to a genus other than those specified.

Vessel Strike Avoidance

Ocean Wind will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds and slow down or stop their vessels to avoid striking these species. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammals sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures would include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any protected species. A visual observer aboard the vessel must monitor a vessel strike avoidance zone based on the appropriate separation distance around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish protected species from other phenomena and (2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal.
- All survey vessels, regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes including seasonal management areas (SMAs) and dynamic management areas (DMAs) when in effect;
- All vessels greater than or equal to 19.8 m in overall length operating from November 1 through April 30 will operate at speeds of 10 knots or less while transiting to and from Project Area;
- All vessels must reduce their speed to 10 knots or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.
- All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.
- All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales.
- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel).
- When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.
- These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Members of the monitoring team will consult NMFS North Atlantic right whale reporting system and Whale Alert, as able, for the presence of North Atlantic right whales throughout survey operations, and for the establishment of a DMA. If NMFS should establish a DMA in the survey area during the survey, the vessels will abide by speed restrictions in the DMA.

Project-specific training will be conducted for all vessel crew prior to the start of a survey and during any changes in crew such that all survey personnel are fully aware and understand the mitigation, monitoring, and reporting requirements. Prior to implementation with vessel crews, the training program will be provided to NMFS for review and approval. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew member understands and will comply with the necessary requirements throughout the survey activities.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important

physical components of marine mammal habitat); and

- Mitigation and monitoring effectiveness.

Proposed Monitoring Measures

Visual monitoring will be performed by qualified, NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Ocean Wind would employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for their designated task. On a case-by-case basis, non-independent observers may be approved by NMFS for limited, specific duties in support of approved, independent PSOs on smaller vessels with limited crew capacity operating in nearshore waters.

The PSOs will be responsible for monitoring the waters surrounding each survey vessel to the farthest extent permitted by sighting conditions, including exclusion zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established exclusion zones during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

During all HRG survey operations (*e.g.,* any day on which use of an HRG source is planned to occur), a minimum of one PSO must be on duty during daylight operations on each survey vessel, conducting visual observations at all times on all active survey vessels during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). Two PSOs will be on watch during nighttime operations. The PSO(s) would ensure 360° visual coverage around the vessel from the most appropriate observation posts and would conduct visual observations using binoculars and/or night vision goggles and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 2 hours between watches and may conduct a maximum of 12 hours of observation per 24-hr period. In cases where multiple vessels are surveying concurrently, any observations of marine mammals would be communicated to PSOs on all nearby survey vessels.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to exclusion zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, night-vision goggles with thermal clip-ons and infrared technology would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs would also conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the active acoustic sources. Any observations of marine mammals by crew members aboard any vessel associated with the survey would be relayed to the PSO team. Data on all PSO observations would be recorded based on standard PSO collection requirements. This would include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.,* species, numbers, behavior); and details of any observed marine mammal behavior that occurs (*e.g.,* noted behavioral disturbances).

Proposed Reporting Measures

Within 90 days after completion of survey activities or expiration of this IHA, whichever comes sooner, a final technical report will be provided to NMFS that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, summarizes the number of marine mammals observed during survey activities (by species, when known), summarizes the mitigation actions taken during surveys (including what type of mitigation and the species and number of animals that prompted the mitigation action, when known), and provides an interpretation of the results and effectiveness of all mitigation and monitoring. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. All draft and final marine mammal and acoustic monitoring reports must be submitted to *PR.ITP.MonitoringReports@noaa.gov* and *ITP.Laws@noaa.gov*. The report must contain at minimum, the following:

- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon;
- Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions); and
- Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-clearance survey, ramp-up, shutdown, end of operations, etc.).

If a marine mammal is sighted, the following information should be recorded:

- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- PSO who sighted the animal;
- Time of sighting;
- Vessel location at time of sighting;
- Water depth;
- Direction of vessel's travel (compass direction);
- Direction of animal's travel relative to the vessel;
- Pace of the animal;
- Estimated distance to the animal and its heading relative to vessel at initial sighting;
- Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;
- Estimated number of animals (high/low/best);
- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

• Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
• Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
• Animal's closest point of approach and/or closest distance from the center point of the acoustic source;
• Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and
• Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

If a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, Ocean Wind must immediately report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System: (866) 755–6622. North Atlantic right whale sightings in any location may also be reported to the U.S. Coast Guard via channel 16.

In the event that Ocean Wind personnel discover an injured or dead marine mammal, Ocean Wind will report the incident to the NMFS Office of Protected Resources (OPR) and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:
• Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
• Species identification (if known) or description of the animal(s) involved;
• Condition of the animal(s) (including carcass condition if the animal is dead);
• Observed behaviors of the animal(s), if alive;
• If available, photographs or video footage of the animal(s); and
• General circumstances under which the animal was discovered.

In the unanticipated event of a ship strike of a marine mammal by any vessel involved in the activities covered by the IHA, Ocean Wind would report the incident to the NMFS OPR and the NMFS New England/Mid-Atlantic Stranding Coordinator as soon as feasible. The report would include the following information:
• Time, date, and location (latitude/longitude) of the incident;
• Species identification (if known) or description of the animal(s) involved;
• Vessel's speed during and leading up to the incident;
• Vessel's course/heading and what operations were being conducted (if applicable);
• Status of all sound sources in use;
• Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
• Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
• Estimated size and length of animal that was struck;
• Description of the behavior of the marine mammal immediately preceding and following the strike;
• If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;
• Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
• To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. NMFS also assesses the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all the species listed in Table 4, given that NMFS expects the anticipated effects of the proposed survey to be similar in nature. Where there are meaningful differences between species or stocks—as is the case of the North Atlantic right whale—they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious injury or mortality is proposed to be authorized. As discussed in the Potential Effects section, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). Even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in viability for the affected individuals, and thus would not result in any adverse impact to the stock as a whole. As described above, Level A harassment is not expected to occur given the nature of the operations, the estimated size of the Level A harassment zones, and the required shutdown zones for certain activities.

In addition to being temporary, the maximum expected harassment zone around a survey vessel is 141 m. Although this distance is assumed for all survey activity in estimating take numbers proposed for authorization and evaluated here, in reality much of the survey activity would involve use of non-impulsive acoustic sources with a reduced acoustic harassment zone of 48 m, producing expected effects of particularly low severity. Therefore, the ensonified area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey

activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the proposed survey area and there are no feeding areas known to be biologically important to marine mammals within the proposed survey area. There is no designated critical habitat for any ESA-listed marine mammals in the proposed survey area.

North Atlantic Right Whales

The status of the North Atlantic right whale population is of heightened concern and, therefore, merits additional analysis. As noted previously, elevated North Atlantic right whale mortalities began in June 2017 and there is an active UME. Overall, preliminary findings support human interactions, specifically vessel strikes and entanglements, as the cause of death for the majority of right whales. As noted previously, the proposed survey area overlaps a migratory corridor BIA for North Atlantic right whales. Due to the fact that the proposed survey activities are temporary and the spatial extent of sound produced by the survey would be very small relative to the spatial extent of the available migratory habitat in the BIA, right whale migration is not expected to be impacted by the proposed survey. Given the relatively small size of the ensonified area, it is unlikely that prey availability would be adversely affected by HRG survey operations. Required vessel strike avoidance measures will also decrease risk of ship strike during migration; no ship strike is expected to occur during Ocean Wind's proposed activities. Additionally, only very limited take by Level B harassment of North Atlantic right whales has been requested and is being proposed by NMFS as HRG survey operations are required to maintain a 500 m EZ and shutdown if a North Atlantic right whale is sighted at or within the EZ. The 500 m shutdown zone for right whales is conservative, considering the Level B harassment isopleth for the most impactful acoustic source (*i.e.,* sparker) is estimated to be 141 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the small PTS zones associated with HRG equipment types proposed for use. NMFS does not anticipate North Atlantic right whales takes that would result from Ocean Wind's proposed activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts.

Other Marine Mammal Species With Active UMEs

As noted previously, there are several active UMEs occurring in the vicinity of Ocean Wind's proposed survey area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or DPS) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales.

Elevated numbers of harbor seal and gray seal mortalities were first observed in July 2018 and have occurred across Maine, New Hampshire, and Massachusetts. Based on tests conducted so far, the main pathogen found in the seals is phocine distemper virus, although additional testing to identify other factors that may be involved in this UME are underway. The UME does not yet provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 75,000 and annual M/SI (350) is well below PBR (2,006) (Hayes *et al.,* 2020). The population abundance for gray seals in the United States is over 27,000, with an estimated abundance, including seals in Canada, of approximately 450,000. In addition, the abundance of gray seals is likely increasing in the U.S. Atlantic as well as in Canada (Hayes *et al.,* 2020).

The required mitigation measures are expected to reduce the number and/or severity of proposed takes for all species listed in Table 4, including those with active UMEs, to the level of least practicable adverse impact. In particular they would provide animals the opportunity to move away from the sound source throughout the survey area before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment. No Level A harassment is anticipated, even in the absence of mitigation measures, or proposed for authorization.

NMFS expects that takes would be in the form of short-term Level B behavioral harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensonified area that might result in take. Additionally, required mitigation measures would further reduce exposure to sound that could result in more severe behavioral harassment.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or proposed for authorization;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or proposed for authorization;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the planned survey to avoid exposure to sounds from the activity;
- Take is anticipated to be primarily Level B behavioral harassment consisting of brief startling reactions and/or temporary avoidance of the survey area;
- While the survey area is within areas noted as a migratory BIA for North Atlantic right whales, the activities would occur in such a comparatively small area such that any avoidance of the survey area due to activities would

not affect migration. In addition, mitigation measures to shutdown at 500 m to minimize potential for Level B behavioral harassment would limit any take of the species; and

• The proposed mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS proposes to authorize incidental take of 16 marine mammal species (with 17 managed stocks). The total amount of takes proposed for authorization relative to the best available population abundance is less than 22 percent for one stock (bottlenose dolphin northern coastal migratory stock), less than 3 percent for the North Atlantic right whale, and less than 1 percent for all other species and stocks, which NMFS preliminarily finds are small numbers of marine mammals relative to the estimated overall population abundances for those stocks. See Table 4.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the 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 OPR consults internally whenever we propose to authorize take for endangered or threatened species, in this case with NMFS Greater Atlantic Regional Fisheries Office (GARFO).

The NMFS OPR 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 whales. NMFS OPR has requested initiation of section 7 consultation with NMFS GARFO for the issuance of this IHA. NMFS will conclude the ESA section 7 consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Ocean Wind for conducting marine site characterization surveys off the coast of New Jersey for one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed marine site characterization surveys. We also request at this time comment on the potential Renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year Renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical, or nearly identical, activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

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

• The request for renewal must include the following:

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

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

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

Dated: March 31, 2021.

Catherine Marzin,

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

[FR Doc. 2021–07014 Filed 4–5–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0187]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Case Service Report (RSA–911)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 May 6, 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 Christopher Pope, (202) 245–7375.

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: Case Service Report (RSA–911).

OMB Control Number: 1820–0508.

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: 34,446.

Abstract: The Case Service Report (RSA–911) is used to collect individual level data on State Vocational Rehabilitation (VR) program participants on a quarterly basis. The data collected in this report are mandated by section 101(a)(10) and 607 of the Rehabilitation Act of 1973 (Act), as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA) and section 116(d) of WIOA. In addition, the Rehabilitation Services Administration (RSA) uses data reported through this collection to support its other responsibilities under the Act. Section 14(a) of the Act calls for the evaluation of programs authorized under the Act, as well as an assessment of the programs' effectiveness in relation to cost. Many of these evaluations use RSA–911 data. RSA also uses data captured through the RSA–911 during the conduct of both the annual review and periodic on-site monitoring of VR agencies required by section 107 of the Act to examine the effectiveness of program performance. Other important management activities, such as the provision of technical assistance, program planning, and budget preparation and development, are greatly enhanced through the use of RSA–911 data. In addition, RSA uses RSA–911 data in the exchange of data under a data sharing agreement with the Social Security Administration and the U.S. Department of Health and Human Services as required by section 131 of the Act. Finally, the RSA–911 is considered to be one of the most robust databases in describing the demographics of the disabled population in the country and as such is used widely in researchers' disability-related analyses and reports.

Dated: April 1, 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. 2021–07021 Filed 4–5–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0177]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Experimental Sites Initiative Reporting Tool 2020

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before May 6, 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 Beth Grebeldinger, (202) 377–4018.

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: Experimental Sites Initiative Reporting Tool 2020.

OMB Control Number: 1845–0150.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 556.

Total Estimated Number of Annual Burden Hours: 11,120.

Abstract: The Secretary of the U.S. Department of Education is authorized under Section 487A(b) of the Higher Education Act of 1965, as amended (HEA), to periodically select a limited number of postsecondary institutions for voluntary participation as experimental sites under the Experimental Sites Initiative (ESI). Institutions and the experiments provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives. Participating postsecondary educational institutions are exempt from specific designated statutory and regulatory requirements while conducting the experiments.

Federal Student Aid (FSA) is requesting a revision of the current information collection 1845–0150. This request is due to changes in the reporting guidelines. FSA is adding new COVID–19 related questions to the Institutional Survey of the schools participating in the Experimental Sites Initiative. FSA is adding new questions to the Institutional Survey of the schools participating in the new Federal Work-Study Experiment. The additional data collection questions are for the new Federal Work-Study Experiment, and FSA has integrated this request with ongoing data collection efforts for the ESI. FSA is increasing school reporting due to the new Federal Work-Study Experiment and the expansion of Second Chance Pell schools. Finally, several of the survey items schools participating in the Second Chance Pell are asked to complete have been reworded.

Dated: April 1, 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. 2021–07020 Filed 4–5–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Case Number 2020–013; EERE–2020–BT–WAV–0027]

Energy Conservation Program: Decision and Order Granting a Waiver to Hercules, a Senneca Holdings Company, From the Department of Energy Walk-In Cooler and Walk-In Freezer Test Procedure

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

ACTION: Notification of decision and order.

SUMMARY: The U.S. Department of Energy (''DOE'') gives notification of a Decision and Order (Case Number 2020–013) that grants to Hercules, a Senneca Holdings company, (''Hercules'') a waiver from specified portions of the DOE test procedure for determining the energy consumption of specified walk-in cooler and walk-in freezer door (''walk-in door'') basic models. Under the Decision and Order, Hercules is required to test and rate the specified basic models of its walk-in doors in accordance with the alternate test procedure set forth in the Decision and Order.

DATES: The Decision and Order is effective on April 6, 2021. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for walk-in cooler and walk-in freezer doors located at title 10 of the Code of Federal Regulations (''CFR''), part 431, subpart R, appendix A that addresses the issues presented in this waiver. At such time, Hercules must use the relevant test procedure for this equipment for any testing to demonstrate compliance with the applicable standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, 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. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with section 431.401(f)(2) of Title 10 of the Code of Federal Regulations (10 CFR 431.401(f)(2)), DOE gives notification of the issuance of its Decision and Order as set forth below. The Decision and Order grants Hercules a waiver from the applicable test procedure at 10 CFR part 431, subpart R, appendix A for specified basic models of walk-in doors, and provides that Hercules must test and rate such equipment using the alternate test procedure specified in the Decision and Order. Hercules's representations concerning the energy consumption of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy consumption of this equipment. (42 U.S.C. 6314(d))

Manufacturers not currently distributing equipment in commerce in the United States that employ a technology or characteristic that results in the same need for a waiver from the applicable test procedure must petition for and be granted a waiver prior to the distribution in commerce of that equipment in the United States. 10 CFR 431.401(j). Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 431.401.

Case # 2020–013

Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA established the Energy Conservation Program for Certain Industrial

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

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

Equipment, which sets forth a variety of provisions designed to improve energy efficiency for certain types of industrial equipment. These types of equipment include walk-in coolers and walk-in freezers, the focus of this document. (42 U.S.C. 6311(1)(G))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316(a); 42 U.S.C. 6299).

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

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C.6314(a)(2)) The test procedure for walk-in doors is set forth at 10 CFR part 431, subpart R, appendix A, ''Uniform Test Method for the Measurement of Energy Consumption of the Components of Envelopes of Walk-In Coolers and Walk-In Freezers'' (''Appendix A'').

Any interested person may submit a petition for waiver from DOE's test procedure requirements. 10 CFR 431.401(a)(1). DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. 10 CFR 431.401(l). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.* When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 431.401(h)(3).

II. Hercules's Petition for Waiver: Assertions and Determinations

By letter dated July 22, 2020, Hercules, a Senneca Holdings company, (''Hercules'') filed a petition for waiver and interim waiver from the DOE test procedure applicable to walk-in doors set forth in Appendix A. (Hercules, No. 1; ''July 2020 petition'') [3] Subsequent to the July 22, 2020 submission and in response to questions from DOE regarding characteristics of the specified basic models and suggested values in the requested alternate test procedure, Hercules submitted an updated petition for waiver and interim waiver on October 14, 2020, that provided additional and updated information. (Hercules, No. 2; ''October 2020 petition'') [4]

Appendix A accounts for the power consumption of all electrical components associated with each door and discounts the power consumption of electrical components based on their operating time by an assigned percent time off (''PTO'') value. See Appendix A, sec. 4.5.2. Section 4.5.2 of Appendix A specifies a PTO of 25 percent for ''other electricity-consuming devices'' (*i.e.,* electrical devices other than lighting or anti-sweat heaters) that have demand-based controls, and a PTO of 0 percent for other electricity-consuming devices without demand-based controls. *Id.* In its petition for waiver, Hercules suggested applying a PTO value of 92 percent to the door motors associated with the basic models specified in its petition. Hercules stated that the test procedure's assumption that the door motor operates for 75 percent of the day (*i.e.,* a PTO of 25 percent) significantly overstates normal motor usage on their powered door models (Hercules, No. 2 at p. 1).

On February 8, 2021, DOE published a notification that announced its receipt of the petition for waiver and granted Hercules an interim waiver. 86 FR 8553 (''Notification of Petition for Waiver''). In the Notification of Petition for Waiver, DOE presented Hercules's claim that results from testing the specified basic models according to Appendix A are unrepresentative of actual energy usage because of the assigned PTO value. DOE also summarized Hercules's requested alternate test procedure, which would require testing the specified basic models according to Appendix A, except the PTO value for door motors would be modified from 25 percent to 92 percent for the specified freight and passage doors.

As explained in the Notification of Petition for Waiver, DOE considered the potential range of parameters affecting door motor operating time and confirmed that Hercules's example calculations used operating conditions that yield the most energy consumptive scenarios, specifically, minimum operating speed of the door motor and maximum length or height of the door opening. 86 FR 8553, 8556. DOE validated Hercules's calculations. *Id.* DOE initially determined that the suggested PTO value of 92 percent was more representative of actual energy use than the currently required PTO value of 25 percent. *Id.* DOE also noted that the required use of a PTO value of 92 percent is consistent with waivers previously granted in response to petitions that presented the same issue as in Hercules's petition.[5] *Id.*

In the Notification of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure. 86 FR 8553. DOE received no comments in response to the Notification of Petition for Waiver.

[3] A notation in the form ''Hercules, No. 1'' identifies a written submission: (1) Made by Hercules; and (2) recorded in document number 1 that is filed in the docket of this petition for waiver (Docket No. EERE–2020–BT–WAV–0027) and available for review at *http://www.regulations.gov.*

[4] Due to the lengthy list of walk-in door basic models listed in Hercules's October 2020 petition, DOE is making the complete list publicly available in the relevant regulatory docket. The specific basic models identified in Appendix I of the petition can be found in the docket at *https://www.regulations.gov/docket/EERE-2020-BT-WAV-0027-002.*

[5] See Notice of Decision and Order granting a waiver to Jamison Door (Case No. 2017–009; 83 FR 53460 (Oct. 23, 2018); Notice of Decision and Order granting a waiver to HH Technologies (Case No. 2018–001; 83 FR 53457 (Oct. 23, 2018)); and Extension of Waiver to HH Technologies (Case No. 2018–011; 84 FR 1434 (Feb. 4, 2019)).

For the reasons explained here and in the Notification of Petition for Waiver, absent a waiver the basic models identified by Hercules in its petition cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the recommended procedure suggested by Hercules and concludes that it will allow for the accurate measurement of the energy use of the equipment, while alleviating the testing issues associated with Hercules's implementation of DOE's applicable walk-in door test procedure for the specified basic models.

Thus, DOE is requiring that Hercules test and rate specified walk-in door basic models according to the alternate test procedure specified in this Decision and Order, which is identical to the procedure provided in the interim waiver.

This Decision and Order is applicable only to the basic models listed and does not extend to any other basic models. DOE evaluates and grants waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. Hercules may request that DOE extend the scope of this waiver to include additional basic models that employ the same technology as those listed in this waiver. 10 CFR 431.401(g). Hercules may also submit another petition for waiver from the test procedure for additional basic models that employ a different technology and meet the criteria for test procedure waivers. 10 CFR 431.401(a)(1).

DOE notes that it may modify or rescind the waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Hercules may request that DOE rescind or modify the waiver if the company discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

III. Order

After careful consideration of all the material that was submitted by Hercules, the various public-facing materials (*e.g.,* product literature, installation manuals) for the units identified in the petition, in this matter, it is *ordered* that:

(1) Hercules must, as of the date of publication of this Order in the **Federal Register**, test and rate the basic models listed in Appendix I of its October 14, 2020 petition as provided in Docket Number EERE–2020–BT–WAV–0027–0002 with the alternate test procedure as set forth in paragraph (2):

(2) The alternate test procedure for the Hercules basic models identified in paragraph (1) of this Order is the test procedure for walk-in doors prescribed by DOE at 10 CFR part 431, subpart R, appendix A, except that the PTO value specified in section 4.5.2 ''Direct Energy Consumption of Electrical Components of Non-Display Doors'' shall be 92 percent for door motors. All other requirements of 10 CFR part 431, subpart R, appendix A and DOE's regulations remain applicable.

(3) *Representations.* Hercules may not make representations about the energy use of a basic model listed in paragraph (1) of this Order for compliance or marketing, unless the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) DOE issues this waiver on the condition that the statements, representations, and information provided by Hercules are valid. If Hercules makes any modifications to the controls or configurations of these basic models, such modifications will render the waiver invalid with respect to that basic model, and Hercules will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Hercules may request that DOE rescind or modify the waiver if Hercules discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) Hercules remains obligated to fulfill all applicable requirements set forth at 10 CFR part 429.

Signing Authority

This document of the Department of Energy was signed on March 31, 2021 by Kelly J. 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 31, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–06991 Filed 4–5–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2020–006; EERE–2020–BT–WAV–0023]

Energy Conservation Program: Notification of Petition for Waiver of GD Midea Air Conditioning Equipment Co. LTD From the Department of Energy Portable Air Conditioner Test Procedure and Notification of Grant of Interim Waiver

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

ACTION: Notification of petition for waiver and grant of an interim waiver; request for comments.

SUMMARY: This notification announces receipt of and publishes a petition for waiver and interim waiver from GD Midea Air Conditioning Equipment Co. LTD (''Midea''), which seeks a waiver for specified portable air conditioner basic models from the U.S. Department of Energy (''DOE'') test procedure used for determining the efficiency of portable air conditioners. DOE also gives notice of an Interim Waiver Order that requires Midea to test and rate the specified portable air conditioner basic models in accordance with the alternate test procedure set forth in the Interim Waiver Order. DOE solicits comments, data, and information concerning Midea's petition and its suggested alternate test procedure to inform DOE's final decision on Midea's waiver request.

DATES: The Interim Waiver Order is effective on April 6, 2021. Written

comments and information are requested and will be accepted on or before May 6, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov*. Alternatively, interested persons may submit comments, identified by case number ''2020–006'', and Docket number ''EERE–2020–BT–WAV–0023,'' by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: AS_Waiver_Requests@ee.doe.gov*. Include Case No. 2020–006 in the subject line of the message.

No telefacsimilies (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see the **SUPPLEMENTARY INFORMATION** section of this document.

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

Docket: The docket, which includes **Federal Register** notices, 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.

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0023*. The docket web page contains instruction on how to access all documents, including public comments, in the docket. See the **SUPPLEMENTARY INFORMATION** section for information on how to submit comments through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Request@ee.doe.gov*.

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–1777. Email: *Sarah.Butler@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: DOE is publishing Midea's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv),[1] absent any confidential business information. DOE invites all interested parties to submit in writing by May 6, 2021, comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Daniel L. Atkins, *daniel.atkins@midea.com,* Midea America Research Center, 2700 Chestnut Station Court, Louisville, KY 40299.

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

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

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

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

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

Include contact information each time you submit comments, data, documents, and other information to DOE.

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

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to

[1] On December 11, 2020, DOE published an amendment to 10 CFR 430.27 regarding the processing of petitions for an interim waiver, which became effective beginning January 11, 2021. 85 FR 79802. Midea's petition for waiver and petition for interim waiver were received prior to the effective date of that amendment. The interim waiver therefore is being processed pursuant to the regulation in effect at the time of receipt, *i.e.,* 10 CFR 430.27 in the 10 CFR parts 200 to 499 edition revised as of January 1, 2020.

500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

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

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

Case Number 2020–006

Interim Waiver Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes the U.S. Department of Energy (''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 for certain types of consumer products. In addition to specifying a list of covered products and industrial equipment, EPCA contains provisions that enable the Secretary of Energy to classify additional types of consumer products as covered products. (42 U.S.C. 6292(a)(20)) In a final determination of coverage published in the **Federal Register** on April 18, 2016, DOE classified portable air conditioners as covered products under EPCA. 81 FR 22514.

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 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 Federal 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 pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C.6293(b)(3)) The test procedure for portable air conditioners is contained in the Code of Federal Regulations (''CFR'') at 10 CFR part 430, subpart B, appendix CC (''Appendix CC'').

Under 10 CFR 430.27, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy consumption characteristics of the basic model. 10 CFR 430.27(b)(1)(iii). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2).

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations to eliminate any need for the continuation of such waiver. 10 CFR 430.27(l). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.*

The waiver process also provides that DOE may grant an interim waiver if it appears likely that the underlying petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the underlying petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h).

When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. *Id.*

II. Midea's Petition for Waiver and Interim Waiver

On June 29, 2020, Midea filed a petition for waiver and petition for interim waiver from the test procedure for portable air conditioners set forth at Appendix CC. (Midea, No. 1 at pp. 2–3 [3]) On July 10, 2020, Midea submitted a revised petition for waiver and application for interim waiver.[4] On September 11, 2020, Midea submitted a request [5] to include five additional basic models in their petition for waiver and petition for interim waiver. On November 17, 2020, Midea submitted a request [6] to include three additional

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[3] A notation in this form provides a reference for information that is in the docket for this test procedure waiver (Docket No. EERE–2020–BT–WAV–0023) (available at *https://www.regulations.gov/docket/EERE-2020-BT-WAV-0023*). This notation indicates that the statement preceding the reference is document number 1 in the docket and appears at pages 2–3 of that document.

[4] The revised petition for waiver and application for interim waiver is available at *https://www.regulations.gov/document?D=EERE-2020-BT-WAV-0023-0002*.

[5] The request to include additional basic models is available at *https://www.regulations.gov/document?D=EERE-2020-BT-WAV-0023-0003*.

[6] The request to include additional basic models is available at *https://www.regulations.gov/document?D=EERE-2020-BT-WAV-0023-0004*.

basic models in their petition for waiver and petition for interim waiver.[7] The current DOE test procedure at Appendix CC tests dual-duct portable air conditioners at two operating conditions, one measuring performance at a high outdoor operating temperature and one measuring performance at a lower outdoor operating temperature. Midea asserts that this testing does not address the ability of variable-speed compressors to adjust their operating speed based on the demand load of the conditioned space. Because of this, Midea indicated that the test procedure does not take into account the full range of performance and efficiency benefits of a variable-speed compressor operating under part-load conditions. Midea cited DOE's test procedure for central air conditioners, which includes part-load test conditions that account for the improved efficiency benefit from variable-speed compressors at 10 CFR 430 subpart B, appendix M1, section 3.2.4. Midea also referenced several waivers; first were two test procedure waivers for room air conditioners that contain variable-speed compressors: Midea's, granted on May 26, 2020, and LG Electronics Inc. (''LG'')'s, granted on May 8, 2019. 85 FR 31481; 84 FR 20111. Second was the portable air conditioner waiver DOE granted to LG on June 2, 2020. That waiver includes part-load test conditions to account for the improved efficiency benefit from variable-speed compressors. 85 FR 33643. Midea asserted that the basic models listed in the petition cannot be tested according to the test procedure at Appendix CC because their condenser inlet and outlet air streams are incorporated into the same structure using ''combined-duct technology.'' Midea stated that the test procedure does not provide for measuring airflow in and out of a single condenser duct at the same time, as would be required for units with a combined duct.

Midea also requested an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. 10 CFR 430.27(e)(2).

Based on the assertions in the petition, absent an interim waiver, Midea's specified portable air conditioner basic models contain design characteristics which prevent testing of the basic model according to the prescribed test procedures and cause the prescribed test procedures to be tested in a manner that is unrepresentative of their actual efficiency.

III. Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of covered products. (42 U.S.C. 6293(c)) Consistency is important when making representations about the energy efficiency of covered products, including when demonstrating compliance with applicable DOE energy conservation standards. Pursuant to 10 CFR 430.27, and after consideration of public comments on the petition, DOE may establish in a subsequent Decision and Order an alternate test procedure for the basic models addressed by the Interim Waiver Order.

Midea seeks to use an alternate test procedure to test and rate specific portable air conditioner basic models. The alternate test procedure is the test procedure for portable air conditioners prescribed by DOE in Appendix CC, with the combined-duct variable-speed portable air conditioners tested at both the high- and low-temperature outdoor operating conditions to measure a weighted-average combined energy efficiency ratio (''CEER''), except the compressor speed is fixed at ''full'' and ''low'' in accordance with manufacturer instructions at the two outdoor conditions, respectively. Midea suggests an additional set of calculations to model the CEER of a theoretical comparable dual-duct single-speed portable air conditioner twice—once with cycling losses and once without cycling losses—based on the performance of the combined-duct variable-speed portable air conditioner at full compressor speed at the low-outdoor temperature condition. From these results, a ''performance adjustment factor'' is calculated, representing the performance improvement associated with avoiding cycling losses. The performance adjustment factor is then multiplied by the measured CEER value for the variable-speed portable air conditioner according to Appendix CC to determine the test unit's final rated CEER value. Midea states that this approach takes into account performance and efficiency improvements associated with combined-duct variable-speed portable air conditioners as compared to dual-duct portable air conditioners with single-speed compressors. In addition to the provisions for variable-speed compressors, Midea's suggested alternate test procedure also adds provisions to the test procedure in Appendix CC to test combined-duct portable air conditioners using an adapter to interface with the combined duct and additional thermocouples to measure temperature variations on the surface of the combined duct.

IV. Interim Waiver Order

DOE has reviewed Midea's application for an interim waiver, the alternate test procedure requested by Midea, diagrams and renderings, and confidential performance data Midea provided to DOE. Based on this review, the alternate test procedure, with modifications discussed in the following paragraphs, appears to allow for the accurate measurement of the efficiency of the specified basic models, while alleviating the problems Midea identified in testing these basic models.

DOE has made four modifications to the alternate test procedure as presented in the Media petition. First, at Midea's request, DOE removed an adjustment factor that was originally requested in the alternate test procedure to account for different full compressor speeds for single-speed and variable-speed portable air conditioners at the lower outdoor temperature operating condition. Second, DOE doubled the number of thermocouples on the combined duct from eight to sixteen. Third, DOE is altering the cycling loss factor (''CLF'') to reflect the most recent data and analysis. Last, DOE is requiring the use of a unit setpoint of 75 °F at the 95 °F fixed chamber test condition to improve test representativeness.

In its petition, Midea suggested an adjustment factor for the purpose of providing a more appropriate comparison between the measured capacity and power when testing the variable-speed portable air conditioner

[7] The brand and basic model numbers specified by Midea in its petition (including the September 11, 2020 and November 17, 2020 submissions) are: Midea, US–KC35Y1/BP3N8–PTB(CH3); Midea, US–KC30Y1/BP3N8–PTB(CG8); Perfect aire, 1PORTV10000; Danby, DPA100B9IWDB–6; Heat Controller LLC, PSV–101D; Whynter, ARC–1030WN; Whynter, ARC–1030BN; Whynter, ARC–1030GN; hOme, HME020373N; Vremi, VRM050703N; Wappliance, BPI10MW; Perfect aire, 1PORTVP10000; Danby, DPA100HB9IWDB–6; Heat Controller LLC, PSHV–101D; Whynter, ARC–1030WNH; Whynter, ARC–1030GNH; Whynter, ARC–1030BNH; hOme, HME020374N; Vremi, VRM050704N; Wappliance, BPI10HMW; Perfect aire, 1PORTV12000; Danby, DPA120B9IWDB–6; Heat Controller LLC, PSV–121D; Whynter, ARC–1230WN; Whynter, ARC–1230BN; Whynter, ARC–1230GN; hOme, HME020375N; Vremi, VRM050705N; Wappliance, BPI12MW; Perfectaire, 1PORTVP12000; Danby, DPA120HB9IWDB–6; Heat Controller LLC, PSHV–121D; Whynter, ARC–1230WNH; Whynter, ARC–1230GNH; Whynter, ARC–1230BNH; hOme, HME020376N; Vremi, VRM050706N; Wappliance, BPI12HMW; Toshiba, RAC–PT1411HWRU; Toshiba, RAC–PT1411CWRU; Toshiba, RAC–PT1211CWRU; Danby, DPA100HB9IBDB–6; Danby, DPA120B9IBDB–6; Midea, MPPTB–12HRN8–BCH4; Midea, MPPTB–12CRN8–BCH4; Midea, MPPTB–10CRN8–BCG8.

with a full compressor speed at the lower outdoor operating conditions and that of a single-speed portable air conditioner operating under those conditions. In a communication following the July 2020 revised petition, Midea requested that the adjustment factor be retracted stating that due to subsequent modifications to the subject basic models the adjustment factor is now not necessary. DOE has therefore removed this adjustment factor from the alternate test procedure.

Additionally, DOE has initially determined that the use of 16 thermocouples better assesses the average temperature on the combined duct given that it contains both the condenser inlet and exhaust air streams. Section 3.1.1.6 of Appendix CC requires four thermocouples per duct. With the basic models at issue, both of the air streams are contained in the same combined duct. The combined duct potentially results in more significant temperature gradients along its length and perimeter, necessitating the use of 16 thermocouples.

Also, DOE considered data collected in support of the ongoing room air conditioner test procedure rulemaking,[8] given the certain similarities of these products to portable air conditioners, to assess the portable air conditioner CLF proposed in Midea's petition. The data for cooling degradation coefficient (''Cd''), presented below in Table IV–1, summarize the results from load-based testing of two single-speed room air conditioners at an outdoor temperature of 82 °F and cooling loads between 49 and 55 percent of the full load (*i.e.,* the cooling capacity resulting from maximum cooling at the 95 °F test condition).

TABLE IV–1—TESTED AND EXTRAPOLATED COOLING DEGRADATION COEFFICIENT

Unit	Load %	Cd
Unit 1	52	0.42
	54	0.39
	* *55*	* *0.38*
Unit 2	49	0.39
	54	0.30
	* *55*	* *0.28*

* Represent extrapolated values to estimate the Cd at a 55% load.

[8] The data were collected following publication of the notice of proposed rulemaking, ''Energy Conservation Program: Test Procedure for Room Air Conditioners'' (85 FR 35700; Jun. 11, 2020), and will be considered as part of that rulemaking.

Extrapolating from the data collected, the average Cd at 55 percent of the full cooling load (*i.e.,* the center of the acceptable range specified in the low compressor speed definition of this waiver) would be 0.332, suggesting a CLF of 0.8 would be more appropriate at the 83 °F test condition as opposed to the 0.875 CLF suggested in the Midea petition. The analysis above represents the best available information to date regarding single-speed room air conditioner cycling at reduced cooling loads, which DOE believes is reflective of the expected cycling that would be observed for single-speed portable air conditioners. Therefore, DOE is adopting the use of 0.8 as the CLF for the 83 °F test condition in this interim waiver.

Furthermore, during the room air conditioner test procedure rulemaking, DOE observed that for units produced by certain manufacturers, variable-speed room air conditioners performed differently depending on the method used to produce maximum cooling capacity. Testing of variable-speed room air conditioners was conducted at maximum cooling capacity for the ''full speed'' 95 °F test condition, achieved either with (1) the user settings (*e.g.,* fan speed, grille position) and thermostat setpoint selected to produce maximum cooling capacity in accordance with the DOE room air conditioner test procedure at 10 CFR part 430, subpart B, appendix F (''appendix F'') (*i.e.,* the unit automatically selected the compressor speed); or (2) using the user settings, in accordance with appendix F, but applying the manufacturer's confidential testing instructions to achieve a fixed ''full'' compressor speed (*i.e.,* the control setting specified in the room air condition waiver and suggested by Midea in their petition). One test unit was 10 percent more efficient when using only the appendix F user settings than when using fixed compressor speed controls, while another unit was 11 percent less efficient.

Based on the observed differences in room air conditioner performance when using the fixed ''full'' compressor speed (*i.e.,* applying the confidential manufacturer instructions) as compared to using only the appendix F settings, described above, DOE concludes that similar differences may occur when testing portable air conditioners and is requiring a unit setpoint of 75 °F for the portable air conditioner ''full speed'' 95 °F test condition, as it would be more representative of typical consumer settings than reliance on the confidential manufacturer instructions to achieve maximum cooling capacity. In evaluating potential thermostat setpoints, DOE reviewed data for 19 portable air conditioners that were field metered in a 2014 study conducted by Lawrence Berkeley National Laboratory.[9] Among these units, the thermostat setpoints selected by consumers ranged from 66 °F to 76 °F, with a median value of 74.5 °F. DOE expects, therefore, that 75 °F is a typical consumer setpoint for portable air conditioners that would achieve the maximum cooling (given the differential between the setpoint and the fixed indoor test chamber dry-bulb temperature of 80 °F), in accordance with appendix CC. DOE is also modifying the definition of ''full compressor speed'' accordingly in this interim waiver.

DOE notes that while variable-speed waivers granted for other products numerically estimate performance of a theoretical single-speed product at reduced outdoor temperature conditions, given the complex heat transfer dynamics related to the ducts, infiltration air, and internal air mixing within the chassis of the combined duct used in the basic models specified by Midea in its petition, DOE believes that the approach proposed by Midea to estimate performance of the theoretical single-speed dual-duct portable air conditioner using the performance of the variable-speed combined-duct portable air conditioner at the low-outdoor temperature condition, modified as discussed above, is appropriate and reasonable. Consequently, DOE has determined that Midea's petition for waiver likely will be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant Midea immediate relief pending a determination of the petition for waiver.

For the reasons stated, it is *ordered* that:

(1) Midea must test and rate the following portable air conditioner basic models with the alternate test procedure set forth in paragraph (2).

[9] T. Burke *et al.,* ''Using Field-Metered Data to Quantify Annual Energy Use of Portable Air Conditioners,'' Lawrence Berkeley National Laboratory, LBNL–6868E, December 2014.

Brand	Model No.
Midea	US–KC35Y1/BP3N8–PTB(CH3)
Midea	US–KC30Y1/BP3N8–PTB(CG8)
Perfect aire	1PORTV10000
Danby	DPA100B9IWDB–6
Heat Controller LLC	PSV–101D
Whynter	ARC–1030WN
Whynter	ARC–1030BN
Whynter	ARC–1030GN
hOme	HME020373N
Vremi	VRM050703N
Wappliance	BPI10MW
Perfect aire	1PORTVP10000.
Danby	DPA100HB9IWDB–6
Heat Controller LLC	PSHV–101D
Whynter	ARC–1030WNH
Whynter	ARC–1030GNH
Whynter	ARC–1030BNH
hOme	HME020374N
Vremi	VRM050704N
Wappliance	BPI10HMW
Perfect aire	1PORTV12000
Danby	DPA120B9IWDB–6
Heat Controller LLC	PSV–121D
Whynter	ARC–1230WN
Whynter	ARC–1230BN
Whynter	ARC–1230GN
hOme	HME020375N
Vremi	VRM050705N
Wappliance	BPI12MW
Perfectaire	1PORTVP12000
Danby	DPA120HB9IWDB–6
Heat Controller LLC	PSHV–121D
Whynter	ARC–1230WNH
Whynter	ARC–1230GNH
Whynter	ARC–1230BNH
hOme	HME020376N
Vremi	VRM050706N
Wappliance	BPI12HMW
Toshiba	RAC–PT1411HWRU
Toshiba	RAC–PT1411CWRU
Toshiba	RAC–PT1211CWRU
Danby	DPA100HB9IBDB–6
Danby	DPA120B9IBDB–6
Midea	MPPTB–12HRN8–BCH4
Midea	MPPTB–12CRN8–BCH4
Midea	MPPTB–10CRN8–BCG8

(2) The alternate test procedure for the Midea basic models identified in paragraph (1) of this Interim Waiver Order is the test procedure for portable air conditioners prescribed by DOE at Appendix CC and 10 CFR 430.23(dd), with three exceptions. First, install the unit under test as detailed below. Second, determine combined energy efficiency ratio (CEER) as detailed below. Third, calculate the estimated annual operating cost in 10 CFR 430.23(dd)(2) as detailed below. In addition, for each basic model listed in paragraph (1), maintain the compressor speed at each test condition, and set the control settings used for the variable components, according to the instructions submitted to DOE by Midea (*https://www.regulations.gov/docket/EERE-2020-BT-WAV-0023*). Upon the compliance date of any new energy conservation standards for portable air conditioners, Midea must report product specific information pursuant to 10 CFR 429.12(b)(13) and 10 CFR 429.62(b). All other requirements of Appendix CC and DOE's regulations remain applicable.

In 10 CFR 430.2, add in alphabetical order:

Combined-duct portable air conditioner means a dual-duct portable air conditioner with the condenser inlet and outlet air streams flowing through separate ducts housed in a single overall duct structure.

In 10 CFR 430.23, in paragraph (dd) revise paragraph (2) to read as follows:

(2) Determine the estimated annual operating cost for a combined-duct variable-speed portable air conditioner, expressed in dollars per year, by multiplying the following two factors:

(i) The sum of the following three values: AEC_{95} multiplied by 0.2, AEC_{83_Low} multiplied by 0.8, and AEC_T, as calculated in section 5.3 of appendix CC of this subpart; and

(ii) A representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary.

(iii) Round the resulting product to the nearest dollar per year.

In Appendix CC:

Add in Section 2, Definitions:

2.11 *Single-speed* means a type of portable air conditioner that cannot adjust the compressor speed.

2.12 *Variable-speed* means a type of portable air conditioner that can automatically adjust the compressor speed.

2.13 *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, and with the thermostat setpoint set at 75 °F.

2.14 *Low compressor speed (low)* means the compressor speed specified by Midea (Docket No. EERE–2020–BT–WAV–0023–0006), at which the unit operates at low load test conditions, such that $Capacity_{\_83\_Low,}$ the measured cooling capacity at this speed at Test Condition 3 in Table 1 of this appendix, is no less than 50 percent and no greater than 60 percent of $Capacity_{95}$, the measured cooling capacity with the full compressor speed at Test Condition 1 in Table 1 of this appendix.

2.15 *Theoretical comparable single-speed portable air conditioner* means a theoretical single-speed portable air conditioner with the same cooling capacity and electrical power input as the variable-speed portable air conditioner under test, with no cycling losses considered, when operating with the full compressor speed and at Test Condition 1 in Table 1 of this appendix.

Replace section 3.1.1 *Test conduct* with the following:

Test conduct. The test apparatus and instructions for testing portable air conditioners in cooling mode and off-cycle mode must conform to the requirements specified in Section 4, ''Definitions'' and Section 7, ''Tests,'' of ANSI/AHAM PAC–1–2015 (incorporated by reference; see § 430.3), except as otherwise specified in this appendix. Measure duct heat transfer and infiltration air heat transfer according to section 4.1.1 and section 4.1.2 of this appendix, respectively.

Replace section 3.1.1.1 *Duct Setup* with the following:

Use only ducting components provided by the manufacturer, including, where provided by the manufacturer, ducts, connectors for attaching the duct(s) to the test unit, sealing, insulation, and window mounting fixtures. Do not apply additional sealing or insulation. To measure the condenser inlet and outlet airflows in the combined duct, use an adapter provided by the manufacturer, which allows for the individual connection of the condenser inlet and outlet airflows to the test lab's airflow measuring apparatuses.

Replace section 3.1.1.6 *Duct temperature measurements* with the following:

Duct temperature measurements. Install any insulation and sealing provided by the manufacturer. Then adhere sixteen thermocouples to the outer surface of the duct, spaced evenly around the circumference (four thermocouples, each 90 degrees apart, radially) and down the length of the duct (four sets of four thermocouples, evenly placed along the length of the duct), ensuring that the thermocouples are distributed equally on the entire surface of the combined duct. Ensure that at least one thermocouple is placed next to the condenser inlet aperture and at least one thermocouple is placed on the duct surface adjacent to or nearest to the condenser outlet aperture. Measure the surface temperature of the combined duct at each thermocouple. Temperature measurements must have an error no greater than ±0.5 °F over the range being measured.

Add to the end of Section 3.1.2, *Control settings:*

Set the compressor speed during cooling mode testing as described in section 4.1 of this appendix, as amended by this Order.

Replace Section 4.1, *Cooling mode* with the following:

Cooling mode. Instead of the test conditions in Table 3 of ANSI/AHAM PAC–1–2015, establish the test conditions presented in Table 1 of this appendix. Test each sample unit three times, once at each test condition in Table 1. For each test condition, measure the sample unit's indoor room cooling capacity and overall power input in cooling mode in accordance with Section 7.1.b and 7.1.c of ANSI/AHAM PAC–1–2015 (incorporated by reference; see § 430.3), respectively, and determine the test duration in accordance with Section 8.7 of ASHRAE Standard 37–2009 (incorporated by reference; § 430.3). Conduct the first test in accordance with ambient conditions for Test Condition 1 in Table 1 of this appendix, achieving the full compressor speed, as defined in section 2.13 of this appendix, with user settings, for the duration of cooling mode testing ($Capacity_{95,}$ P_{95}). Conduct the second test in accordance with the ambient conditions for Test Condition 2, in Table 1 of this appendix, with the compressor speed set to full, for the duration of cooling mode testing ($Capacity_{83\_Full}$, P_{83_Full}). To confirm the same full compressor speed is used, the average compressor frequency for the second test must equal that observed for the first test, with a tolerance of +/− 10% of the nominal average compressor frequency of the first test. Conduct the third test in accordance with the ambient conditions for Test Condition 3, with the compressor speed set to low for the duration of cooling mode testing ($Capacity_{83\_Low}$, P_{83_Low}). Set the compressor speed required for each test condition in accordance with the instructions Midea submitted to DOE (Docket No. EERE–2020–BT–WAV–0023–0006).

TABLE 1—EVAPORATOR AND CONDENSER INLET TEST CONDITIONS

Test condition	Evaporator inlet air °F (°C)		Condenser inlet air °F (°C)		Compressor speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80 (26.7)	67 (19.4)	95 (35.0)	75 (23.9)	Full.
Test Condition 2	80 (26.7)	67 (19.4)	83 (28.3)	67.5 (19.7)	Full.
Test Condition 3	80 (26.7)	67 (19.4)	83 (28.3)	67.5 (19.7)	Low.

Replace Section 4.1.1, *Duct Heat Transfer,* with the following:

Duct Heat Transfer. Measure the circumference of the duct by wrapping a flexible measuring tape, or equivalent, around the outside of the combined duct, making sure the tape is on the outermost ridges. Calculate the surface area of the combined duct as follows:

$A_{CD} = C \times L$

Where:

A_{CD} = the outer area of the combined duct, in square feet.
C = the circumference of the combined duct, as measured in this section, in feet.
L = the extended length of the combined duct while under test, in feet.

Calculate the average temperature at each individual location. Then calculate the average surface temperature of the duct by averaging the sixteen average temperature measurements taken on the duct. Calculate the total heat transferred from the surface of the combined duct to the indoor conditioned space while operating in cooling mode at each test condition in Table 1 of this appendix, according to the following equations:

$Q_{CD\_95} = 3 \times A_{CD} \times (T_{CD\_95} - T_{ei})$

$Q_{CD\_83\_Full} = 3 \times A_{CD} \times (T_{CD\_83\_Full} - T_{ei})$

$Q_{CD\_83\_Low} = 3 \times A_{CD} \times (T_{CD\_83\_Low} - T_{ei})$

Where:

Q_{CD_95}, $Q_{CD\_83\_Full}$, and $Q_{CD\_83\_Low}$ = the total heat transferred from the combined duct to the indoor conditioned space in cooling mode, in Btu/h, when tested at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively.

3 = convection coefficient in Btu/h per square foot per °F.

A_{CD} = surface area of the combined duct, as calculated in this section, in square feet.

T_{CD_95}, $T_{CD\_83\_Full}$, and $T_{CD\_83\_Low}$ = average surface temperature for the combined duct, in °F, as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as calculated in this section.

T_{ei} = average evaporator inlet air dry-bulb temperature, as measured in section 4.1 of this appendix, in °F.

Replace Section 4.1.2, *Infiltration Air Heat Transfer* with the following:

Infiltration Air Heat Transfer. Calculate the sample unit's heat contribution from infiltration air into the conditioned space for each cooling mode test. Calculate the dry air mass flow rate of infiltration air according to the following equations:

$$\dot{m}_{95} = \frac{V_{co\_95} \times \rho_{co\_95}}{\left(1 + \omega_{co\_95}\right)} - \frac{V_{ci\_95} \times \rho_{ci\_95}}{\left(1 + \omega_{ci\_95}\right)}$$

$$\dot{m}_{83} = \frac{V_{co\_83\_Full} \times \rho_{co\_83\_Full}}{\left(1 + \omega_{co\_83\_Full}\right)} - \frac{V_{ci\_83\_Full} \times \rho_{ci\_83\_Full}}{\left(1 + \omega_{ci\_83\_Full}\right)}$$

$$\dot{m}_{83\_Low} = \frac{V_{co\_83\_Low} \times \rho_{co\_83\_Low}}{\left(1 + \omega_{co\_83\_Low}\right)} - \frac{V_{ci\_83\_Low} \times \rho_{ci\_83\_Low}}{\left(1 + \omega_{ci\_83\_Low}\right)}$$

Where:

$\dot{m}_{95}$, $\dot{m}_{83\_Full}$ and $\dot{m}_{83\_Low}$ = dry air mass flow rate of infiltration air for combined-duct portable air conditioners, in lb/m, when tested at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively.

V_{co_95}, $V_{co\_83\_Full}$ and $V_{co\_83\_Low}$ = average volumetric flow rate of the condenser outlet air, in cubic feet per minute (cfm), as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as required in section 4.1 of this appendix.

V_{ci_95}, $V_{ci\_83\_Full}$ and $V_{ci\_83\_Low}$ = average volumetric flow rate of the condenser inlet air, in cfm, as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as required in section 4.1 of this appendix.

ρ_{co_95}, $\rho_{co\_83\_Full}$ and $\rho_{co\_83\_Low}$ = average density of the condenser outlet air, in pounds mass per cubic foot ($lb_m/ft3$), as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as required in section 4.1 of this appendix.

ρ_{ci_95}, $\rho_{ci\_83\_Full}$ and $\rho_{ci\_83\_Low}$ = average density of the condenser inlet air, in lb_m/ft^3, as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as required in section 4.1 of this appendix.

ω_{co_95}, $\omega_{co\_83\_Full}$ and $\omega_{co\_83\_Low}$ = average humidity ratio of condenser outlet air, in pounds mass of water vapor per pounds mass of dry air (lb_w/lb_{da}), as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as required in section 4.1 of this appendix.

ω_{ci_95}, $\omega_{ci\_83\_Full}$ and $\omega_{ci\_83\_Low}$ = average humidity ratio of condenser inlet air, in lb_w/lb_{da}, as measured at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as required in section 4.1 of this appendix.

Calculate the sensible component of infiltration air heat contribution according to the following equations:

$Q_{s\_95} = \dot{m}_{95} \times 60 \times [c_{p\_da} \times (95 - 80) + (c_{p\_wv} \times (0.0141 \times 95 - 0.0112 \times 80))]$

$Q_{s\_83\_Full} = \dot{m}_{83\_Full} \times 60 \times [(c_{p\_da} \times (83 - 80) + (c_{p\_wv} \times (0.01086 \times 83 - 0.0112_{r} \times 80))]$

$Q_{s\_83\_Low} = \dot{m}_{83\_Low} \times 60 \times [(c_{p\_da} \times (83 - 80) + (c_{p\_wv} \times (0.01086 \times 83 - 0.0112_{r} \times 80))]$

Where:

Q_{s_95}, $Q_{s\_83\_Full}$ and $Q_{s\_83\_Low}$ = sensible heat added to the room by infiltration air, in Btu/h, when tested at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively.

$\dot{m}_{95}$, $\dot{m}_{83\_Full}$ and $\dot{m}_{83\_Low}$ = dry air mass flow rate of infiltration air for combined-duct portable air conditioners, in lb/m, when tested at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as calculated in section 4.1.2 of this appendix.

c_{p_da} = specific heat of dry air, 0.24 Btu/(lb_m °F).

c_{p_wv} = specific heat of water vapor, 0.444 Btu/(lb_m °F).

80 = indoor chamber dry-bulb temperature, in °F.

95 = infiltration air dry-bulb temperature for Test Condition 1 in Table 1 of this appendix, in °F.

83 = infiltration air dry-bulb temperature for Test Conditions 2 and 3 in Table 1 of this appendix, in °F.

0.0141 = humidity ratio of the dry-bulb infiltration air for Test Condition 1 in Table 1 of this appendix, in lb_w/lb_{da}.

0.01086 = humidity ratio of the dry-bulb infiltration air for Test Conditions 2 and 3 in Table 1 of this appendix, in lb_w/lb_{da}.

0.0112 = humidity ratio of the indoor chamber air, in lb_w/lb_{da} (ω_{indoor}).

60 = conversion factor from minutes to hours.

Calculate the latent heat contribution of the infiltration air according to the following equations:

$Q_{l\_95} = \dot{m}_{95} \times 60 \times 1061 \times (0.0141 - 0.0112)$

$Q_{l\_83\_Full} = \dot{m}_{83\_Full} \times 60 \times 1061 \times (0.01086 - 0.0112)$

$Q_{l\_83\_Low} = \dot{m}_{83\_Low} \times 60 \times 1061 \times (0.01086 - 0.0112)$

Where:

Q_{l_95}, $Q_{l\_83\_Full}$ and $Q_{l\_83\_Low}$ = latent heat added to the room by infiltration air, when tested at Test Conditions 1, 2, and 3 in Table 1 of this appendix, respectively, in Btu/h.

$\dot{m}_{95}$, $\dot{m}_{83\_Full}$ and $\dot{m}_{83\_Low}$ = dry air mass flow rate of infiltration air, in lb/m, when tested at Test Condition 1, Test Condition 2, and Test Condition 3 in Table 1 of this appendix, respectively, as calculated in section 4.1.2 of this appendix.

1061 = latent heat of vaporization for water vapor, in Btu/lb_m (H_{fg}).

0.0141 = humidity ratio of the dry-bulb infiltration air for Test Condition 1 in Table 1 of this appendix, in lb_w/lb_{da}.

0.01086 = humidity ratio of the dry-bulb infiltration air for Test Conditions 2 and 3 in Table 1 of this appendix, in lb_w/lb_{da}.

0.0112 = humidity ratio of the indoor chamber air, in lb_w/lb_{da}.

60 = conversion factor from minutes to hours.

Calculate the total heat contribution of the infiltration air at each test condition by adding the sensible and latent heat according to the following equations:

$Q_{infiltration\_95} = Q_{s\_95} + Q_{l\_95}$

$Q_{infiltration\_83\_Full} = Q_{s\_83\_Full} + Q_{l\_83\_Full}$

$Q_{infiltration\_83\_Low} = Q_{s\_83\_Low} + Q_{l\_83\_Low}$

Where:

$Q_{infiltration\_95}$, $Q_{infiltration\_83\_Full}$ and $Q_{infiltration\_83\_Low}$ = total infiltration air heat in cooling mode, when tested at Test Conditions 1, 2, and 3 in Table 1 of this appendix, respectively, in Btu/h

Q_{s_95}, $Q_{s\_83\_Full}$ and $Q_{s\_83\_Low}$ = sensible heat added to the room by infiltration air, when tested at Test Conditions 1, 2, and 3 in Table 1 of this appendix, respectively, in Btu/h, as calculated in this section.

Q_{l_95}, $Q_{l\_83\_Full}$ and $Q_{l\_83\_Low}$ = latent heat added to the room by infiltration air, when tested at Test Conditions 1, 2, and 3 in Table 1 of this appendix, respectively, in Btu/h, as calculated in this section.

Replace Section 5.1, *Adjusted Cooling Capacity* with the following:

Adjusted Cooling Capacity. Calculate the adjusted cooling capacity at each outdoor temperature operating condition, ACC_{95} and ACC_{83_Low}, expressed in Btu/h, according to the following equations:

$ACC_{95} = Capacity_{95} - Q_{CD\_95} - Q_{infiltration\_95}$

$ACC_{83\_Low} = Capacity_{83\_Low} - Q_{CD\_Low} - Q_{infiltration\_83\_Low}$

Where:

$Capacity_{95}$ and $Capacity_{83\_Low}$ = cooling capacity, as measured in section 4.1 of this appendix, at Test Condition 1 and Test Condition 3 in Table 1 of this appendix, respectively, in Btu/h.

Q_{CD_95} and $Q_{CD\_83\_Low}$ = combined duct heat transfer while operating in cooling mode at Test Condition 1 and Test Condition 3 in Table 1 of this appendix, respectively, in Btu/h, as calculated in section 4.1.1 of this appendix.

$Q_{infiltration\_95}$ and $Q_{infiltration\_83\_Low}$ = total infiltration air heat transfer in cooling mode at Test Condition 1 and Test Condition 3 in Table 1 of this appendix, respectively, in Btu/h, as calculated in section 4.1.2 of this appendix.

Replace Section 5.3, *Annual Energy Consumption* with the following:

Annual Energy Consumption. Calculate the sample unit's annual energy consumption in each operating mode according to the equation below. For each operating mode, use the following annual hours of operation and equation:

Operating mode	Subscript	Annual operating hours
Cooling Mode, Test Condition 1 [1].	95	750
Cooling Mode, Test Condition 2 [1].	83_Full	750
Cooling Mode, Test Condition 3 [1].	83_Low	750
Off-Cycle	oc	880
Inactive or Off	ia or om	1,355

[1] These operating mode hours are for the purposes of calculating annual energy consumption under different ambient conditions and are not a division of the total cooling mode operating hours. The total cooling mode operating hours are 750 hours.

$$AEC_m = P_m \times t_m \times 0.001$$

Where:

AEC_m = annual energy consumption in the operating mode, in kWh/year.

m represents the operating mode (''95'' for Test Condition 1, ''83_Full'' for Test Condition 2, ''83_Low'' for Test Condition 3, ''oc'' for off cycle, and ''ia'' for inactive or ''om'' for off mode).

P_m = average power in the operating mode, in watts.

t_m = number of annual operating time in each operating mode, in hours.

0.001 kWh/Wh = conversion factor from watt-hours to kilowatt-hours.

Calculate the sample unit's total annual energy consumption in off cycle mode and inactive or off mode as follows:

$$AEC_T = \sum_m AEC_m$$

Where:

AEC_T = total annual energy consumption attributed to off cycle mode and inactive or off mode, in kWh/year;

AEC_m = total annual energy consumption in the operating mode, in kWh/year.

m represents the following two operating modes: Off cycle mode and inactive or off mode.

Replace Section 5.4, *Combined Energy Efficiency Ratio* with the following:

Unadjusted Combined Energy Efficiency Ratio. Calculate the sample unit's unadjusted combined energy efficiency ratio, $CEER_{UA}$, expressed in Btu/Wh, as follows:

$$CEER_{UA} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83\_Low}}{\left(\frac{AEC_{83\_Low} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

Where:

$CEER_{UA}$ = unadjusted combined energy efficiency ratio for the sample unit, in Btu/Wh.

ACC_{95} and ACC_{83_Low} = adjusted cooling capacity, tested at Test Condition 1 and Test Condition 3 in Table 1 of this appendix, respectively, as calculated in section 5.1 of this appendix, in Btu/h.

AEC_{95} and AEC_{83_Low} = annual energy consumption for cooling mode operation at Test Condition 1 and Test Condition 3 in Table 1 in this appendix that represent operation at 95 °F and 83 °F dry-bulb outdoor temperature operating conditions, respectively, as calculated in section 5.3 of this appendix, in kWh/year.

AEC_T = total annual energy consumption attributed to off cycle mode and inactive or off mode, in kWh/year, calculated in section 5.3 of this appendix.

750 = number of cooling mode hours per year.

0.001 kWh/Wh = conversion factor for watt-hours to kilowatt-hours.

0.2 = weighting factor for the 95 °F dry-bulb outdoor temperature operating condition.

0.8 = weighting factor for the 83 °F dry-bulb outdoor temperature operating condition.

Add after Section 5.4, *Combined Energy Efficiency Ratio*:

5.5 *Adjustment of the Combined Energy Efficiency Ratio.* Adjust the sample unit's unadjusted combined energy efficiency ratio as follows.

5.5.1 *Theoretical Comparable Single-Speed Portable Air Conditioner Cooling Capacity and Power at the Lower Outdoor Temperature Operating Condition.* Calculate the cooling capacity and cooling capacity with cycling losses, expressed in British thermal units per hour (Btu/h), and electrical power input, expressed in watts, for a theoretical comparable single-speed portable air conditioner at an 83 °F outdoor dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) according to the following equations:

$Capacity_{83\_SS} = Capacity_{83\_Full}$

$Capacity_{83\_SS\_CLF} = Capacity_{83\_SS} \times 0.8$

$P_{83\_SS} = P_{83\_Full}$

Where:

$Capacity_{83\_SS}$ = cooling capacity of a theoretical comparable single-speed portable air conditioner, calculated for the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in Btu/h.

$Capacity_{83\_SS\_CLF}$ = cooling capacity of a theoretical comparable single-speed

portable air conditioner with cycling losses, in Btu/h, calculated for the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix).

$Capacity_{83\_Full}$ = cooling capacity of the sample unit, measured in section 4.1 of this appendix at Test Condition 2 in Table 1 of this appendix, in Btu/h.

P_{83_SS} = power input of a theoretical comparable single-speed portable air conditioner calculated for the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in watts.

P_{83_Full} = electrical power input of the sample unit, measured in section 4.1 of this appendix at Test Condition 2 in Table 1 of this appendix, in watts.

0.8 = cycling loss factor for the 83 °F dry-bulb outdoor temperature operating condition.

5.5.2 *Duct Heat Transfer for a Theoretical Comparable Single-Speed Portable Air Conditioner at the Lower Outdoor Temperature Operating Condition.* Calculate the combined duct heat transfer to the conditioned space for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), as follows:

$$Q_{CD\_83\_SS} = Q_{CD\_83\_Full}$$

Where:

$Q_{CD\_83\_SS}$ = total heat transferred from the combined duct to the indoor conditioned space in cooling mode, for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition), in Btu/h.

$Q_{CD\_83\_Full}$ = combined duct heat transfer for the sample unit while operating in cooling mode at Test Condition 2 in Table 1 of this appendix (the 83 °F dry-bulb outdoor temperature operating condition), in Btu/h, as calculated in section 4.1.1 of this appendix.

5.5.3 *Infiltration Air Heat Transfer for a Theoretical Comparable Single-Speed Portable Air Conditioner at the Lower Outdoor Temperature Operating Condition.* Calculate the heat contribution from infiltration air for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), as detailed below. Calculate the dry air mass flow rate of infiltration air as follows:

$$\dot{m}_{83\_SS} = \dot{m}_{83\_Full}$$

Where:

$\dot{m}_{83\_SS}$ = dry air mass flow rate of infiltration air for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in lb/m.

$\dot{m}_{83\_Full}$ = dry air mass flow rate of infiltration air for the sample unit when tested at Test Condition 2 in Table 1 of this appendix (the 83 °F dry-bulb outdoor temperature operating condition), as calculated in section 4.1.2 of this appendix, in lb/m.

Calculate the sensible component of infiltration air heat contribution for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) as follows:

$$Q_{s\_83\_SS} = Q_{s\_83\_Full}$$

Where:

$Q_{s\_83\_SS}$ = sensible heat added to the room by infiltration air for a theoretical comparable single-speed portable air conditioner, at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in Btu/h.

$Q_{s\_83\_Full}$ = sensible heat added to the room by infiltration air, when testing the sample unit at Test Condition 2 in Table 1 of this appendix (the 83 °F dry-bulb outdoor temperature operating condition), as calculated in section 4.1.2 of this appendix, in Btu/h.

Calculate the latent component of infiltration air heat contribution for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) as follows:

$$Q_{l\_83\_SS} = Q_{l\_83\_Full}$$

Where:

$Q_{l\_83\_SS}$ = latent heat added to the room by infiltration air for a theoretical comparable single-speed portable air conditioner, at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in Btu/h.

$Q_{l\_83\_Full}$ = latent heat added to the room by infiltration air during testing of the sample unit, when tested at Test Condition 2 in Table 1 of this appendix (the 83 °F dry-bulb outdoor temperature operating condition), as calculated in section 4.1.2 of this appendix, in Btu/h.

Calculate the total heat contribution of the infiltration air for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) as follows:

$$Q_{infiltration\_83\_SS} = Q_{infiltration\_83\_Full}$$

Where:

$Q_{infiltration\_83\_SS}$ = total infiltration air heat in cooling mode for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in Btu/h.

$Q_{infiltration\_83\_Full}$ = total infiltration air heat transfer of the sample unit in cooling mode at Test Condition 2 in Table 1 of this appendix (the 83 °F dry-bulb outdoor temperature operating condition), as calculated in section 4.1.2 of this appendix, in Btu/h.

5.5.4 *Adjusted Cooling Capacity for a Theoretical Comparable Single-Speed Portable Air Conditioner at the Lower Outdoor Temperature Operating Condition.* Calculate the adjusted cooling capacity for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) both without cycling losses, ACC_{83_SS}, and with cycling losses, $ACC_{83\_SS\_CLF}$, in Btu/h, according to the following equations:

$$ACC_{83\_SS} = Capacity_{83\_SS} - Q_{CD\_83\_SS} - Q_{infiltration\_83\_SS}$$

$$ACC_{83\_SS\_CLF} = Capacity_{83\_SS\_CLF} - Q_{CD\_83\_SS} - Q_{infiltration\_83\_SS}$$

Where:

ACC_{83_SS} and $ACC_{83\_SS\_CLF}$ = adjusted cooling capacity for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) without and with cycling losses, respectively, in Btu/h.

$Capacity_{83\_SS}$ and $Capacity_{83\_SS\_CLF}$ = cooling capacity of a theoretical comparable single-speed portable air conditioner without and with cycling losses, respectively, at Test Condition 2 in Table 1 of this appendix (the 83 °F dry-bulb outdoor temperature operating condition), calculated in section 5.5.1 of this appendix, in Btu/h.

$Q_{CD\_83\_SS}$ = total heat transferred from the ducts to the indoor conditioned space in cooling mode for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in Btu/h, calculated in section 5.5.2 of this appendix.

$Q_{infiltration\_83\_SS}$ = total infiltration air heat in cooling mode for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), calculated in section 5.5.3 of this appendix, in Btu/h.

5.5.5 *Annual Energy Consumption in Cooling Mode for a Theoretical Comparable Single-Speed Portable Air Conditioner at the Lower Outdoor Temperature Operating Condition.* Calculate the annual energy consumption in cooling mode for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in kWh/year, as follows:

$AEC_{83\_SS} = P_{83\_SS} \times 750 \times 0.001$

Where:

AEC_{83_SS} = annual energy consumption for a theoretical comparable single-speed portable air conditioner in cooling mode at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), in kWh/year.

P_{83_SS} = electrical power input for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) as calculated in section 5.5.1 of this appendix, in watts.

750 = number of cooling mode hours per year, as defined in section 5.3 of this appendix.

0.001 kWh/Wh = conversion factor from watt-hours to kilowatt-hours.

5.5.6 *Combined Energy Efficiency Ratio for a Theoretical Comparable Single-Speed Portable Air Conditioner.* Calculate the combined energy efficiency ratios for a theoretical comparable single-speed portable air conditioner both without cycling losses, $CEER_{SS}$, and with cycling losses, $CEER_{SS\_CLF}$, in Btu/Wh, according to the following equations:

$$CEER_{SS} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83\_SS}}{\left(\frac{AEC_{83\_SS} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

$$CEER_{SS\_CLF} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83\_SS\_CLF}}{\left(\frac{AEC_{83\_SS} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

Where:

$CEER_{SS}$ and $CEER_{SS\_CLF}$ = combined energy efficiency ratio for a theoretical comparable single-speed portable air conditioner without and with cycling losses considered, respectively, in Btu/Wh.

ACC_{95} = adjusted cooling capacity for the sample unit, as calculated in section 5.1 of this appendix, when tested at Test Condition 1 in Table 1 of this appendix, in Btu/h.

ACC_{83_SS} and $ACC_{83\_SS\_CLF}$ = adjusted cooling capacities for a theoretical comparable single-speed portable air conditioner at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix) without and with cycling losses, respectively, as calculated in section 5.5.4 of this appendix, in Btu/h.

AEC_{95} = annual energy consumption for the sample unit, as calculated in section 5.3 of this appendix, for cooling mode operation at Test Condition 1 in Table 1 of this appendix, in kWh/year.

AEC_{83_SS} = annual energy consumption for a theoretical comparable single-speed portable air conditioner in cooling mode at the 83 °F dry-bulb outdoor temperature operating condition (Test Condition 2 in Table 1 of this appendix), calculated in section 5.5.5 of this appendix, in kWh/year.

AEC_T = total annual energy consumption attributed to all operating modes except cooling for the sample unit, calculated in section 5.3 of this appendix, in kWh/year.

750 and 0.001 as defined previously in this section.

0.2 = weighting factor for the 95 °F dry-bulb outdoor temperature operating condition.

0.8 = weighting factor for the 83 °F dry-bulb outdoor temperature operating condition.

5.5.7 *Combined-Duct Variable-Speed Portable Air Conditioner Performance Adjustment Factor.* Calculate the sample unit's performance adjustment factor, $F_{p,}$, as follows:

$$F_p = \frac{(CEER_{SS} - CEER_{SS\_CLF})}{CEER_{SS\_CLF}}$$

Where:

$CEER_{SS}$ and $CEER_{SS\_CLF}$ = combined energy efficiency ratios for a theoretical comparable single-speed portable air conditioner without and with cycling losses, respectively, calculated in section 5.5.6 of this appendix, in Btu/Wh.

5.5.8 *Dual-Duct Variable-Speed Portable Air Conditioner Combined Energy Efficiency Ratio.* Calculate the sample unit's final combined energy efficiency ratio, CEER, in Btu/Wh, as follows:

$CEER = CEER_{UA} \times (1 + F_p)$

Where:

CEER = combined energy efficiency ratio for the sample unit, in Btu/Wh.

$CEER_{UA}$ = unadjusted combined energy efficiency ratio for the sample unit, calculated in section 5.4 of this appendix, in Btu/Wh.

F_p = sample unit's performance adjustment factor, calculated in section 5.5.7 of this appendix.''

(3) Representations. Midea may not make representations about the efficiency of a basic model listed in paragraph (1) of this Interim Waiver Order for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions set forth in this alternate test procedure and such representations fairly disclose the results of such testing.

(4) This Interim Waiver Order shall remain in effect according to the provisions of 10 CFR 430.27.

(5) This Interim Waiver Order is issued on the condition that the statements, representations, test data, and documentary materials provided by Midea are valid. If Midea makes any modifications to the controls or configurations of a basic model subject to this Interim Waiver Order, the waiver will be invalid with respect to that basic model Midea either would be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for the Interim Waiver Order is incorrect, or the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, Midea may request that DOE rescind or modify the Interim Waiver Order if Midea discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Issuance of this Interim Waiver Order does not release Midea from the applicable requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that Midea may manufacture. Midea may submit a new or amended petition for waiver and

request for grant of interim waiver, as appropriate, for additional basic models of portable air conditioners. Alternatively, if appropriate, Midea may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g).

Signing Authority

This document of the Department of Energy was signed on March 31, 2021, by Kelly J. 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 April 1, 2021.

Treena V. Garrett,

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

BEFORE THE
UNITED STATES DEPARTMENT OF ENERGY
WASHINGTON, DC 20585

In the Matter of: Energy Efficiency Program: Test Procedure for Portable Air Conditioners

Petition of Midea for Waiver, and Application for Interim Waiver, of Test Procedure for Portable Air Conditioners

Introduction

GD Midea Air Conditioning Equipment Co. LTD. (Midea) hereby submits this Petition for Waiver, and Application for Interim Waiver, of the Department of Energy (DOE) Test Procedure for dual-duct portable air conditioners (PACs) in 10 CFR part 430, subpart B, Appendix CC, pursuant to 10 CFR 430.27. Midea requests expedited treatment of the Petition and Application.

Midea requests that DOE grant the requested Waiver and Interim Waiver because the current test procedure cannot be used to test dual-duct PACs with Midea's duct-in-duct (combined-duct) technology, which combines the condenser inlet and outlet ducts into a single structure. Furthermore, the current test procedure does not properly measure the energy consumption of combined-duct PACs with variable-speed compressors (VSCs).[11] This request is consistent with the approach used for VSCs in the Waiver granted to LG Electronics Inc. (LG) published June 2, 2020, 85 FR 33,643, for testing single-duct PACs with VSCs. It simply adds procedures to accommodate Midea's combined-duct technology. Under DOE rules, this Waiver request should be granted. DOE also has authority to grant an Interim Waiver because the requested Waiver is likely be granted, because it would avoid economic hardship and competitive disadvantage to Midea, and because it would reflect sound public policy.

Analysis

I. Midea Group

The Midea Group, of which Midea is a part, is the world's largest producer of major appliances, and the world's No. 1 brand of air-treatment products, air-coolers, kettles, and rice cookers. It is also a world-leading technologies group in consumer appliances and HVAC systems. It offers diversified products, comprising consumer appliances (kitchen appliances, refrigerators, laundry appliances, and various small home appliances) and HVAC (residential air-conditioning, commercial air-conditioning, heating & ventilation). The Midea Group is committed to improving lives by adhering to the principle of ''Creating Value for Customers.'' It focuses on continuous technological innovation to improve products and services to make life more comfortable. The Midea Group's worldwide headquarters are located at Midea Group headquarter building, No. 6 Midea Avenue, Beijiao, Shunde, Foshan, Guangdong, 528311 P.R. China; (tel. 011–86–757–2633–888); URL: *www.midea.com/global.* GD Midea Air Conditioning Equipment Co. LTD, is located at No 6. Midea Avenue, Shunde Foshan, Guangdong, 528311 P.R. China.

II. Basic Models Subject to the Waiver Request

This Petition for Waiver, and Application for Interim Waiver, are for the following basic models of residential PACs manufactured by Midea. All models have Midea's combined-duct technology:

Brand	Model No.	Compressor type	Unit type
Midea	US–KC35Y1/BP3N8–PTB(CH3)	Variable-Speed	Cool-only.
Midea	US–KC30Y1/BP3N8–PTB(CG8)	Variable-Speed	Cool-only.
Perfect aire	1PORTV10000	Variable-Speed	Cool-only.
Danby	DPA100B9IWDB–6	Variable-Speed	Cool-only.
Heat Controller LLC	PSV–101D	Variable-Speed	Cool-only.
Whynter	ARC–1030WN	Variable-Speed	Cool-only.
Whynter	ARC–1030BN	Variable-Speed	Cool-only.
Whynter	ARC–1030GN	Variable-Speed	Cool-only.
hOme	HME020373N	Variable-Speed	Cool-only.
Vremi	VRM050703N	Variable-Speed	Cool-only.
Wappliance	BPI10MW	Variable-Speed	Cool-only.
Perfect aire	1PORTVP10000	Variable-Speed	Heat-Cool.
Danby	DPA100HB9IWDB–6	Variable-Speed	Heat-Cool.
Heat Controller LLC	PSHV–101D	Variable-Speed	Heat-Cool.
Whynter	ARC–1030WNH	Variable-Speed	Heat-Cool.
Whynter	ARC–1030GNH	Variable-Speed	Heat-Cool.
Whynter	ARC–1030BNH	Variable-Speed	Heat-Cool.
hOme	HME020374N	Variable-Speed	Heat-Cool.
Vremi	VRM050704N	Variable-Speed	Heat-Cool.

[11] Midea intends to manufacture such units using both standard compressors and VSCs. It expects to add models that do not have VSCs to this waiver request.

Brand	Model No.	Compressor type	Unit type
Wappliance	BPI10HMW	Variable-Speed	Heat-Cool.
Perfect aire	1PORTV12000	Variable-Speed	Cool-only.
Danby	DPA120B9IWDB–6	Variable-Speed	Cool-only.
Heat Controller LLC	PSV–121D	Variable-Speed	Cool-only.
Whynter	ARC–1230WN	Variable-Speed	Cool-only.
Whynter	ARC–1230BN	Variable-Speed	Cool-only.
Whynter	ARC–1230GN	Variable-Speed	Cool-only.
hOme	HME020375N	Variable-Speed	Cool-only.
Vremi	VRM050705N	Variable-Speed	Cool-only.
Wappliance	BPI12MW	Variable-Speed	Cool-only.
Perfectaire	1PORTVP12000	Variable-Speed	Heat-Cool.
Danby	DPA120HB9IWDB–6	Variable-Speed	Heat-Cool.
Heat Controller LLC	PSHV–121D	Variable-Speed	Heat-Cool.
Whynter	ARC–1230WNH	Variable-Speed	Heat-Cool.
Whynter	ARC–1230GNH	Variable-Speed	Heat-Cool.
Whynter	ARC–1230BNH	Variable-Speed	Heat-Cool.
hOme	HME020376N	Variable-Speed	Heat-Cool.
Vremi	VRM050706N	Variable-Speed	Heat-Cool.
Wappliance	BPI12HMW	Variable-Speed	Heat-Cool.
Midea	MPPTB–12HRN8–BCH4	Variable-Speed	Heat-Cool.
Midea	MPPTB–12CRN8–BCH4	Variable-Speed	Cool-only.
Midea	MPPTB–10CRN8–BCG8	Variable-Speed	Cool-only.

III. Requested Waiver

Midea requests a waiver to test the energy consumption of the above residential PACs using the test procedure detailed in the waiver for PACs granted to LG,2 published on June 2, 2020, with modifications needed to account for dual-duct units incorporating Midea's combined-duct technology.

Strong demand for advanced energy efficient PACs led Midea to design dual-duct PACs with dramatic energy savings, and the ability to maintain the desired temperature without cycling the compressor motor and fans on and off by using inverter driven VSCs. The unit responds automatically to surrounding conditions by adjusting the compressor rotational speed based upon demand. This results in faster cooling and much more efficient operation through optimizing the speed of the compressor to make minimal adjustments as the room temperature rises and falls.

The current DOE test procedure tests dual-duct PACs at two operating conditions, one measuring performance at a high outdoor operating temperature and one measuring performance at a lower outdoor operating temperature, without addressing the ability of VSCs to adjust their operating speed based on the demand load of the conditioned space. As such, the test procedure does not take into account the full range of performance and efficiency benefits of a VSC operating under part-load conditions. Other DOE test standards, such as for central air conditioners—and the test procedures approved through waivers granted to Midea and LG for room air conditioners and to LG for PACs—include part-load test conditions that account for the improved efficiency benefit from VSCs that modulate their operation to account for changing conditions to the environment, rather than cycling the compressor on and off.

Additionally, the current test procedure prevents the testing of Midea's combined-duct technology because the condenser inlet and outlet air streams are incorporated into the same structure. Since the airflow both in and out of the condenser must be measured at the same time, modifications are needed to adapt Midea's combined-duct technology to DOE's test procedure and standard airflow measurement lab apparatuses. The DOE test procedure does not take into account a specially designed adapter that is needed for measuring the airflows.

IV. Regulatory Framework

DOE's regulations provide that the Assistant Secretary ''will'' grant a Petition to a manufacturer upon a ''*determination that the basic model for which the waiver was requested contains a design characteristic which either prevents testing of the basic model according to the prescribed test procedures, or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data.*'' *See* 10 CFR 430.27 (emphasis supplied).

As noted, the current DOE test procedure, 10 CFR part 430, subpart B, Appendix CC, requires that dual-duct PACs be tested at two operating conditions, one measuring peak load performance at a high outdoor operating temperature, and one measuring a reduced load performance at a lower outdoor operating temperature, and does not make any account for dual-duct PACs offering variable speed operation based upon different air test conditions. As a result, Midea's new dual-duct VSC PACs cannot be tested in a way that accurately reflects the energy saving benefits of VSC technology. If Midea were to test its dual-duct VSC PACs to the current test procedure the results would be wholly unrepresentative of their true energy consumption.

Moreover, the models in Section II of this application cannot be tested using the current test procedure because the combined-duct design means that airflows from the inlet and outlet of the condenser must be measured together, at the same time, as seen in Figure 1. This requires a specially designed adapter that, naturally, is not part of the current test procedure. In addition, the duct heat transfer for the combined duct requires specific instructions on where to place the thermocouples so the heat transfer can be accounted for, which the current test procedure does not provide.

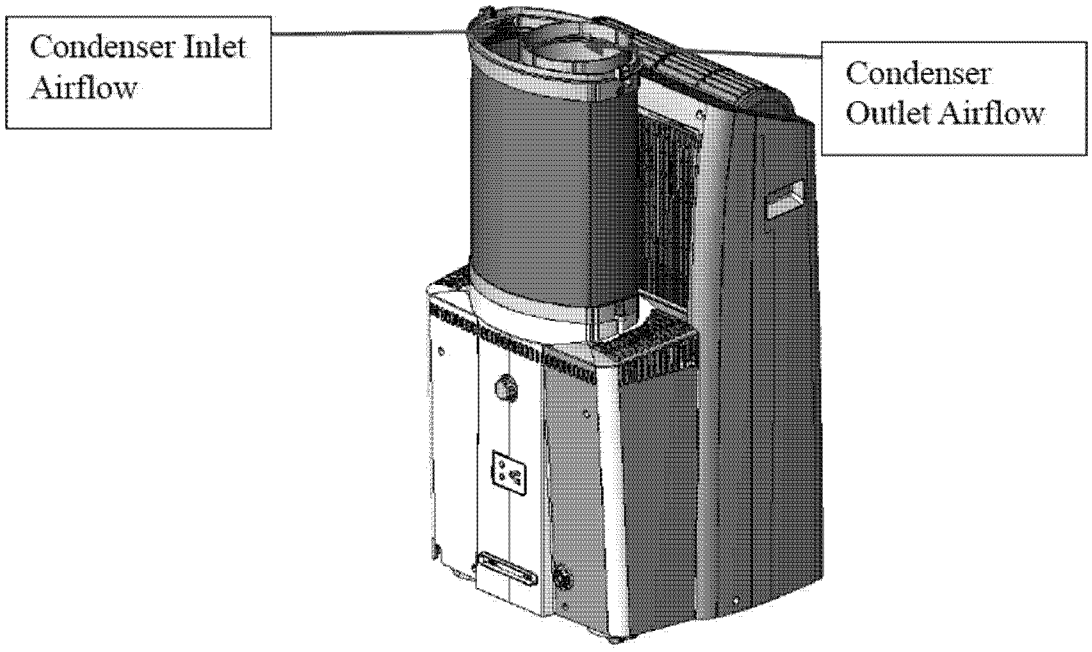

Figure 1: PAC with combined-duct technology

V. Other Manufacturers With Similar Design Characteristics

To the best of Midea's knowledge, (i) Midea is the only manufacturer of dual-duct PACs with combined-duct technology, both with and without VSCs, in the U.S. market; and (ii) Midea and LG are the only manufacturers of PACs with VSC technology in the U.S. market.

VI. Proposed Modifications to the Test Procedure

Midea proposes the following alternative test method to evaluate the performance of the basic models listed in Section II. This alternative test method is the same as the existing procedure for PACs per Appendix CC, except it accounts for the combined-duct technology by describing the means to measure and calculate duct heat transfer and by providing a provision that requires a special adapter be used during testing and evaluation to measure the inlet and outlet condenser airflows. Additionally, the modified test procedure accounts for the increased efficiency of using VSCs, similar to the approach in the waver granted to LG published June 2, 2020.[12] Specifically:

Midea shall be required to test the performance of the basic models listed in the Section II hereto according to the test procedure for portable air conditioners in 10 CFR, Part 430, Subpart B, Appendix CC, and the waiver granted to LG published on June 2, 2020, except as follows:

Add the following after ''This appendix covers the test requirements used to measure the energy performance of single-duct and dual-duct'' in section 1 of Appendix CC: '', including combined-duct,''.

Include the following sections from the LG waiver:

''2.11 Single-speed means a type of portable air conditioner that does not automatically adjust either the compressor or fan speed, or both, based on the detected outdoor conditions.''

''2.12 Variable-speed means a type of portable air conditioner that can automatically adjust compressor and fan speed, only compressor speed, or only fan speed, based on the detected outdoor conditions.''

Replace the following sections from the LG waiver, with:

''2.13 Full compressor speed (full) means the compressor speed specified by the manufacturer at which the unit operates at full load testing conditions. Note—full compressor speed may be different at different test conditions.''

''2.14 Low compressor speed (low) means the compressor speed specified by the manufacturer at which the unit operates at low load test conditions, such that $Capacity_{83\_Low}$, the measured cooling capacity at test condition 3 in Table 1 of this appendix, is no less than 50 percent and no greater than 60 percent of the measured cooling capacity with the full compressor speed at test condition 1 in Table 1 of this appendix.''

Modify section 2.15 of the LG waiver by replacing the word ''single'' with the word ''dual''. Add new section 2.16 to Appendix CC as follows:

''2.16 Combined-duct portable air conditioner—a version of dual-duct portable air conditioner where the ducts for the condenser inlet and outlet air are housed in the same structure.''

Replace the sentence ''Note that if a product is able to operate as both a single-duct and dual-duct portable AC as distributed in commerce by the manufacturer, it must be tested and rated for all applicable duct configurations.'' in section 3.1.1 of Appendix CC with:

''Note that if a product is able to operate in multiple duct configurations, including single-duct, combined-duct, and dual-duct portable AC as distributed in commerce by the manufacturer, it must be tested and rated for all applicable duct configurations.''

Add the following after ''Do not apply additional sealing or insulation.'' to Appendix CC section 3.1.1.1:

''For combined-duct portable air conditioners a special adapter is needed for testing to properly measure the condenser inlet and outlet airflows. This adapter must be provided by the manufacturer and allow connection of the condenser inlet and outlet airflows to the test lab's airflow measuring apparatuses.''

Replace the sentence in Appendix CC section 3.1.1.6 with the following to account for the combination duct temperature measurements:

''Duct temperature measurements. Install any insulation and sealing

[12] *Id.*

provided by the manufacturer. Then adhere eight equally spaced thermocouples to the outer surface of the duct, ensuring that the thermocouples are distributed equally on both the inlet and outlet portion of the combined-duct. Measure the surface temperature of the combined duct. Temperature measurements must have an error no greater than ±0.5 °F over the range being measured.''

Include the modifications for section 3.1.2 of Appendix CC as defined in the LG waiver:

''3.1.2 Control settings. Set the controls to the lowest available temperature setpoint for cooling mode. If the portable air conditioner has a user-adjustable fan speed, select the maximum fan speed setting. If the portable air conditioner has an automatic louver oscillation feature, disable that feature throughout testing. If the louver oscillation feature is included but there is no option to disable it, test with the louver oscillation enabled. If the portable air conditioner has adjustable louvers, position the louvers parallel with the air flow to maximize air flow and minimize static pressure loss. Set the compressor speed during cooling mode testing as described in section 4.1, as amended by this interim waiver.''

Replace section 4.1 of Appendix CC with the following to account for both single-speed and variable-speed compressor units as listed in Section II of this petition:

''4.1 Cooling mode. Instead of the test conditions in Table 3 of ANSI/AHAM PAC–1–2015, establish the test conditions presented in Table 1 of this appendix. Test each single-speed sample unit twice, once at test condition 1 and once at test condition 2 in Table 1. Test each variable-speed sample unit three times, once at each test condition in Table 1. For each test condition, measure the sample unit's indoor room cooling capacity and overall power input in cooling mode in accordance with Section 7.1.b and 7.1.c of ANSI/AHAM PAC–1–2015 (incorporated by reference; see § 430.3), respectively, and determine the test duration in accordance with Section 8.7 of ASHRAE Standard 37–2009 (incorporated by reference; § 430.3). Conduct the first test, for both single and variable-speed units, in accordance with ambient conditions for test condition 1 in Table 1 of this appendix, with the compressor speed set to full, for the duration of cooling mode testing ($Capacity_{95}$, P_{95}), which represents an outdoor temperature operating condition of 95 °F dry-bulb and 67 °F wet-bulb temperatures. Conduct the second test in accordance with the ambient conditions for test condition 2 in Table 1 of this appendix, with the compressor speed set to full, for the duration of cooling mode testing ($Capacity_{83}$, P_{83}), which represents an outdoor temperature operating condition of 83 °F dry-bulb and 67.5 °F wet-bulb temperatures. For variable-speed units only, conduct the third test in accordance with the ambient conditions for test condition 3 in Table 1 of this appendix, with the compressor speed set to low for the duration of the cooling mode testing ($Capacity_{83\_Low}$, P_{83_Low}), which represents an outdoor temperature operating condition of 83 °F dry-bulb and 67.5 °F wet-bulb temperatures. Set the compressor speed required for each test condition in accordance with the manufacturer's instructions.''

Replace Table 1 of Appendix CC with the following:

TABLE 1—EVAPORATOR (INDOOR) AND CONDENSER (OUTDOOR) INLET TEST CONDITIONS

Test configuration	Evaporator inlet air, °F (°C)		Condenser inlet air, °F (°C)		Condenser speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Dual-Duct, Condition 1	80 (26.7)	67 (19.4)	95 (35.0)	75 (23.9)	Full.
Dual-Duct, Condition 2	80 (26.7)	67 (19.4)	83 (28.3)	67.5 (19.7)	Full.
Dual-Duct, Condition 3	80 (26.7)	67 (19.4)	83 (28.3)	67.5 (19.7)	Low.

Modify Appendix CC section 4.1.1 with the following after ''Calculate the surface area'': , A_{CD}, to the following equation:

For combined-duct portable air conditioners:

$A_{CD} = P \times L$

Where:

A_{CD} = the outer area of the combined-duct, in square feet.

L = the extended length of the combined-duct while under test, in feet.

P = the perimeter of the combined-duct, as measured following the instructions below, in ft.

Measure the perimeter of the combined-duct air conditioners using a flexible measuring tape, or equivalent, by wrapping the measuring tape around the outside of the combined-duct, making sure the tape is on the outermost ridges.

Calculate the total heat transferred from the surface of the duct(s) to the indoor conditioned space while operating in cooling mode for the outdoor test conditions in Table 1 of this appendix, as follows.

For combined-duct portable air conditioners:

$Q_{CD\_95} = h \times A_{CD} \times (T_{CD\_95} - T_{ei})$

$Q_{CD\_83} = h \times A_{CD} \times (T_{CD\_83} - T_{ei})$

$Q_{CD\_83\_Low} = h \times A_{CD} \times (T_{CD\_83\_Low} - T_{ei})$

Where:

Q_{CD_95}, Q_{CD_83}, and $Q_{CD\_83\_Low}$ = for combined-duct portable air conditioners, the total heat transferred from the ducts to the indoor conditioned space in cooling mode, in Btu/h, when tested according to test condition 1, 2, and 3 in Table 1 of this appendix, respectively.

T_{CD_95}, T_{CD_83}, and $T_{CD\_83\_Low}$ = average surface temperature for the duct, as measured during testing according to the three outdoor test conditions in Table 1 of this appendix, in °F.

A_{CD} = the outer area of the combined-duct, in square feet.

h = convection coefficient, 3 Btu/h per square foot per °F.

Replace section 4.1.2 in Appendix CC with the following:

''4.1.2 Infiltration Air Heat Transfer. Measure the heat contribution from infiltration air for dual- duct portable air conditioners that draw at least part of the condenser air from the conditioned space. Calculate the heat contribution from infiltration air for dual-duct portable air conditioners for all cooling mode outdoor test conditions, as described in this section. Calculate the dry air mass flow rate of infiltration air according to the following equations:

$$\dot{m}_{95} = \left[\frac{V_{co\_95} \times \rho_{co\_95}}{(1 + \omega_{co\_95})}\right] - \left[\frac{V_{ci\_95} \times \rho_{ci\_95}}{(1 + \omega_{ci\_95})}\right]$$

$$\dot{m}_{83\_Low} = \left[\frac{V_{co\_83} \times \rho_{co\_83}}{(1 + \omega_{co\_83})}\right] - \left[\frac{V_{ci\_83} \times \rho_{ci\_83}}{(1 + \omega_{ci\_83})}\right]$$

$$\dot{m}_{83\_low} = \left[\frac{V_{co\_83\_Low} \times \rho_{co\_83\_Low}}{(1 + \omega_{co\_83\_Low})}\right] - \left[\frac{V_{ci\_83\_Low} \times \rho_{ci\_83\_Low}}{(1 + \omega_{ci\_83\_Low})}\right]$$

Where:

$\dot{m}_{95}$, $\dot{m}_{83}$ and $\dot{m}_{83\_Low}$ = dry air mass flow rate of infiltration air for dual-duct portable air conditioners, as calculated based on testing according to the test conditions in Table 1 of this appendix, in lb/m.

V_{co_95}, V_{co_83} and $V_{co\_83\_Low}$ = average volumetric flow rate of the condenser outlet air during cooling mode testing for single-duct portable air conditioners; and at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in cubic feet per minute (cfm).

V_{ci_95}, V_{ci_83} and $V_{ci\_83\_Low}$ = average volumetric flow rate of the condenser inlet air during cooling mode testing at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in cfm.

ρ_{co_95}, ρ_{co_83} and $\rho_{co\_83\_Low}$ = average density of the condenser outlet air during cooling mode testing for single-duct portable air conditioners, and at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in pounds mass per cubic foot (lb_m/ft^3).

ρ_{ci_95}, ρ_{ci_83} and $\rho_{ci\_83\_Low}$ = average density of the condenser inlet air during cooling mode testing at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in lb_m/ft^3.

ω_{co_95}, ω_{co_83} and $\omega_{co\_83\_Low}$ = average humidity ratio of condenser outlet air during cooling mode testing for single-duct portable air conditioners, and at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in pounds mass of water vapor per pounds mass of dry air (lb_w/lb_{da}).

ω_{ci_95}, ω_{ci_83} and $\omega_{ci\_83\_Low}$ = average humidity ratio of condenser inlet air during cooling mode testing at the 95 °F and 83 °F dry-bulb outdoor conditions for dual-duct portable air conditioners, respectively, in lb_w/lb_{da}.

Calculate the sensible component of infiltration air heat contribution according to:

$$Q_{s\_95} = \dot{m} \times 60 \times [c_{p\_da} \times (T_{ia\_95} - T_{indoor}) + (c_{p\_wv} \times (\omega_{ia\_95} \times T_{ia\_95} - \omega_{indoor} \times T_{indoor}))]$$

$$Q_{s\_83} = \dot{m} \times 60 \times [(c_{p\_da} \times (T_{ia\_83} - T_{indoor}) + (c_{p\_wv} \times (\omega_{ia\_83} \times T_{ia\_83} - \omega_{indoor} \times T_{indoor}))]$$

$$Q_{s\_83\_Low} = \dot{m} \times 60 \times [(c_{p\_da} \times (T_{ia\_83} - T_{indoor}) + (c_{p\_wv} \times (\omega_{ia\_83} \times T_{ia\_83} - \omega_{indoor} \times T_{indoor}))$$

Where:

Q_{s_95}, Q_{s_83} and $Q_{s\_83\_Low}$ = sensible heat added to the room by infiltration air, calculated at the 1, 2, and 3 test conditions respectively in Table 1 of this appendix, in Btu/h.

$\dot{m}$ = dry air mass flow rate of infiltration air, $\dot{m}_{SD}$ or $\dot{m}_{95}$ when calculating Q_{s_95} and $\dot{m}_{SD}$ or $\dot{m}_{83}$ when calculating Q_{s_83} and $\dot{m}_{83\_Low}$ when calculating $Q_{s\_83\_Low}$, in lb/m.

c_{p_da} = specific heat of dry air, 0.24 $Btu/lb_m - °F$.

c_{p_wv} = specific heat of water vapor, 0.444 $Btu/lb_m - °F$. T_{indoor} = indoor chamber dry-bulb temperature, 80 °F.

T_{ia_95} and T_{ia_83} = infiltration air dry-bulb temperatures for the three test conditions in Table 1 of this appendix, 95 °F and 83 °F, respectively.

ω_{ia_95} and ω_{ia_83} = humidity ratios of the 95 °F and 83 °F dry-bulb infiltration air, 0.0141 and 0.01086 lb_w/lb_{da}, respectively.

ω_{indoor} = humidity ratio of the indoor chamber air, 0.0112 lb_w/lb_{da}.

60 = conversion factor from minutes to hours.

Calculate the latent heat contribution of the infiltration air according to:

$$Q_{l\_95} = \dot{m} \times 60 \times H_{fg} \times (\omega_{ia\_95} - \omega_{indoor})$$

$$Q_{l\_83} = \dot{m} \times 60 \times H_{fg} \times (\omega_{ia\_83} - \omega_{indoor})$$

$$Q_{l\_83\_Low} = \dot{m} \times 60 \times H_{fg} \times (\omega_{ia\_83} - \omega_{indoor})$$

Where:

Q_{l_95}, Q_{l_83} and $Q_{l\_83\_LOW}$ = latent heat added to the room by infiltration air, calculated at the 1, 2, and 3 test conditions respectively in Table 1 of this appendix, in Btu/h.

$\dot{m}$ = mass flow rate of infiltration air, $\dot{m}_{SD}$ or $\dot{m}_{95}$ when calculating Q_{l_95} and $\dot{m}_{SD}$ or $\dot{m}_{83}$ when calculating Q_{l_83} and $\dot{m}_{83\_Low}$ when calculating $Q_{s\_83\_Low}$, in lb/m.

H_{fg} = latent heat of vaporization for water vapor, 1061 Btu/lb_m.

ω_{ia_95} and ω_{ia_83} = humidity ratios of the 95 °F and 83 °F dry-bulb infiltration air, 0.0141 and 0.01086 lb_w/lb_{da}, respectively.

ω_{indoor} = humidity ratio of the indoor chamber air, 0.0112 lb_w/lb_{da}.

60 = conversion factor from minutes to hours.

The total heat contribution of the infiltration air is the sum of the sensible and latent heat:

$$Q_{infiltration\_95} = Q_{s\_95} + Q_{l\_95}$$

$$Q_{infiltration\_83} = Q_{s\_83} + Q_{l\_83}$$

$$Q_{infiltration\_83\_Low} = Q_{s\_83\_Low} + Q_{l\_83\_Low}$$

Where:

$Q_{infiltration\_95}$, $Q_{infiltration\_83}$ and $Q_{infiltration\_83\_Low}$ = total infiltration air heat in cooling mode, calculated at the 1, 2, and 3 test conditions respectively in Table 1 of this appendix, in Btu/h.

Q_{s_95}, Q_{s_83} and $Q_{s\_83\_Low}$ = sensible heat added to the room by infiltration air, calculated at the 1, 2, and 3 test conditions respectively in Table 1 of this appendix, in Btu/h.

Q_{l_95}, Q_{l_83} and $Q_{l\_83\_Low}$ = latent heat added to the room by infiltration air, calculated at the 1, 2, and 3 test conditions respectively in Table 1 of this appendix, in Btu/h.

Modify section 5.1 of Appendix CC after ''Calculate the adjusted cooling capacities for portable air conditioners, ACC_{95}, ACC_{83},'' with the following:

''and ACC_{83_Low} expressed in Btu/h, according to the following equations:

$$ACC_{95} = Capacity_{95} — Q_{CD\_95} - Q_{infiltration\_95}$$

$$ACC_{83} = Capacity_{83} — Q_{CD\_83} - Q_{infiltration\_83}$$

$$ACC_{83\_Low} = Capacity_{83\_Low} - Q_{CD\_83\_Low} - Q_{infiltration\_83\_Low}$$

Where:

$Capacity_{95}$, $Capacity_{83}$, and $Capacity_{83\_Low}$ = cooling capacity measured in section 4.1.1 of this appendix.

Q_{CD_95}, Q_{CD_83}, and $QCD_{\_83\_Low}$ = duct heat transfer while operating in cooling mode, calculated in section 4.1.1.1 of this appendix.

$Q_{infiltration\_95}$, $Q_{infiltration\_83}$, and $Q_{infiltration\_83\_Low}$ = total infiltration air heat transfer in cooling mode, calculated in section 4.1.1.2 of this appendix.''

Replace the table of Annual Operating Hours in Appendix CC section 5.3 with the following:

Operating mode	Annual operating hours
Cooling Mode, Dual-Duct test condition 1	750
Cooling Mode, Dual-Duct test condition 2	750
Cooling Mode, Dual-Duct, test condition 3	750
Off-Cycle	880
Inactive or Off	1,355

Change the definition of variable ''m'' in Appendix CC section 5.3 to the following:

''m represents the operating mode (''95'' for test condition 1, ''83'' for test condition 2, ''83_Low'' for test condition 3, ''oc'' off cycle, and ''ia'' inactive or ''om'' off mode).''

Replace section 5.4 of Appendix CC with the following:

''5.4 Combined Energy Efficiency Ratio. Using the annual operating hours, as outlined in section.

5.3 of this appendix, calculate the combined energy efficiency ratios, $CEER_{SS}$ and $CEER_{UA}$, expressed in Btu/Wh, according to the following:

For Single-Speed Units:

$$CEER_{SS} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83}}{\left(\frac{AEC_{83} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

For Variable Speed Units:

$$CEER_{UA} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83\_Low}}{\left(\frac{AEC_{83\_Low} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

Where:

$CEER_{SS}$ = combined energy efficiency ratio for the single-speed portable air conditioner, in Btu/Wh.

ACC_{95}, ACC_{83} and ACC_{83_Low} = adjusted cooling capacity, in Btu/h, calculated in section 5.1 of this appendix.

$CEER_{UA}$ = combined energy efficiency ratio for the variable-speed portable air conditioner, in Btu/Wh.

AEC_{95}, AEC_{83}, and AEC_{83_Low} = annual energy consumption for the cooling mode tests, in kWh/year, calculated in section 5.3 of this appendix.

AEC_T = total annual energy consumption attributed to all modes except cooling, in kWh/year, calculated in section 5.3 of this appendix.

750 = number of cooling mode hours per year.

0.01 kWh/Wh = conversion factor for watt-hours to kilowatt-hours.

0.2 = weighting factor for the 95 °F dry-bulb outdoor condition test.

0.8 = weighting factor for the 83 °F dry-bulb outdoor condition test.''

Modify section 5.5 of the LG waiver by adding the following after ''Adjust the combined energy efficiency ratio'' and before ''as follows.'': ''for variable speed units''

Modify section 5.5.1 of the LG waiver by replacing everything after ''Calculate the cooling capacity and cooling capacity with cycling losses, expressed in British thermal units per hour (Btu/h), and electrical power input, expressed in watts, for a theoretical comparable single-speed portable air conditioner'' with the following:

''at test condition 2 in Table 1 of this appendix. A theoretical comparable single-speed compressor has the same cooling capacity and electrical input, with cycling losses, as the tested per test condition 2 in Table 4.1 of this appendix and further adjusted to account for the different compressor speeds.

$Capacity_{83\_SS} = Capacity_{83} \times F_{Cap}$

$Capacity_{83\_SS\_CLF} = Capacity_{83\_SS} \times 0.875$

$P_{83\_SS} = P_{83} \times F_{Cap}$

Where:

$Capacity_{83\_SS}$ = theoretical comparable single-speed portable air conditioner cooling capacity, in Btu/h, calculated for test condition 2 in Table 1.

$Capacity_{83\_SS\_CLF}$ = theoretical comparable single-speed portable air conditioner cooling capacity with cycling losses, in Btu/h, calculated for test condition 2 in Table 1.

$Capacity_{83}$ = variable-speed portable air conditioner cooling capacity, in Btu/h, determined in section 4.1 of this appendix for test condition 2 in Table 1.

P_{83_SS} = theoretical comparable single-speed portable air conditioner electrical power input, in watts, calculated for test condition 2 in Table 1.

P_{83} = variable-speed portable air conditioner electrical power input, in watts, determined in section 4.1 of this appendix for test condition 2 in Table 1.

0.875 = cycling loss factor for the 83 °F dry-bulb outdoor temperature operating condition.

F_{Cap} = adjustment factor to account for different compressor speeds at test condition 2 in Table 1 of this appendix between single-speed and variable-speed compressors, 0.92.''

Delete section 5.5.2 from the LG waiver. This section is not needed, and instead the duct loss for a comparable single speed unit is accounted for in section 4.1.1.

Delete section 5.5.3 from the LG waiver. This section is not needed, and instead the infiltration for a comparable single speed unit is accounted for in section 4.1.2.

Replace section 5.5.4 in the LG waiver with the following:

''5.5.4 Adjusted Cooling Capacity for a Theoretical Comparable Single-Speed Portable Air Conditioner at the Lower Outdoor Test Condition. Calculate the adjusted cooling capacity for a theoretical comparable single-speed portable air conditioner operating at test condition 2 in Table 1 of this appendix with and without cycling losses, ACC_{83_SS} and $ACC_{83\_SS\_CLF}$, respectively, expressed in Btu/h, according to the following equation:

$ACC_{83\_SS} = Capacity_{83\_SS} - Q_{CD\_83} - Q_{infiltration\_83}$

$ACC_{83\_SS\_CLF} = Capacity_{83\_SS\_CLF} - Q_{CD\_83} - Q_{infiltration\_83}$

Where:

ACC_{83_SS} and $ACC_{83\_SS\_CLF}$ = adjusted cooling capacity for a theoretical comparable single-speed portable air conditioner at test condition 2 in Table 1 of this appendix without and with cycling losses, respectively, in Btu/h.

$Capacity_{83\_SS}$ and $Capacity_{83\_SS\_CLF}$ = theoretical comparable single-speed

portable air conditioner cooling capacity without and with cycling losses, respectively, in Btu/h, at test condition 2 in Table 1 of this appendix, calculated in section 5.5.1 of this appendix.

Q_{CD_83} = total heat transferred from the ducts to the indoor conditioned space in cooling mode for a theoretical comparable single-speed portable air conditioner at test condition 2 in Table 1 of this appendix, in Btu/h, calculated in section 4.1.1 of this appendix.

$Q_{infiltration\_83\_SS}$ = total infiltration air heat in cooling mode for a theoretical comparable single-speed portable air conditioner at test condition 2 in Table 1 of this appendix, in Btu/h, calculated in section 4.1.2 of this appendix.''

Modify section 5.5.5 in the LG waiver by replacing everything after ''Calculate the annual energy consumption in cooling mode for a theoretical comparable single-speed portable air conditioner at'' with the following:

''test condition 2 in Table 1 of this appendix, in kWh/year, according to the following equations:

$$AEC_{83\_SS} = P_{83\_SS} \times 750 \times 0.001$$

Where:

AEC_{83_SS} = annual energy consumption for a theoretical comparable single-speed portable air conditioner in cooling mode at test condition 2 in Table 1 of this appendix, in kWh/year.

P_{83_SS} = electrical power input for a theoretical comparable single-speed portable air conditioner electrical power input at condition 2 in Table 1 of this appendix, in watts, calculated in section 5.5.1 of this appendix.

750 = number of cooling mode hours per year, as defined in section 5.3 of this appendix.

0.001 kWh/Wh = conversion factor from watt-hours to kilowatt-hours.

Replace section 5.5.6 of the LG waiver with the following:

''5.5.6 Combined Energy Efficiency Ratio for a Theoretical Comparable Single-Speed Portable Air Conditioner. Calculate the combined energy efficiency ratio for a theoretical comparable single-speed portable air conditioner without and with cycling, $CEER_{SS}$, and with cycling losses, $CEER_{SS\_CLF}$, in Btu/Wh, according to the following equations:

$$CEER_{SS} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83\_SS}}{\left(\frac{AEC_{83\_SS} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

$$CEER_{SS\_CLF} = \left[\frac{ACC_{95}}{\left(\frac{AEC_{95} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.2 + \left[\frac{ACC_{83\_SS\_CLF}}{\left(\frac{AEC_{83\_SS} + AEC_T}{750 \times 0.001}\right)}\right] \times 0.8$$

Where:

$CEER_{SS}$ and $CEER_{SS\_CLF}$ = combined energy efficiency ratio for a theoretical comparable single-speed portable air conditioner without and with cycling losses considered, respectively, in Btu/Wh.

ACC_{95} = adjusted cooling capacity for the sample unit, as calculated in section 5.1 of this appendix, when tested at test condition 1 in Table 1 of this appendix that is representative of operation at the 95 °F dry-bulb outdoor temperature operating condition, in Btu/h.

ACC_{83} and $ACC_{83\_SS\_CLF}$ = adjusted cooling capacity for a theoretical comparable single-speed portable air conditioner at test condition 2 in Table 1 of this appendix without and with cycling losses, respectively, as calculated in section 5.5.4 of this appendix, in Btu/h.

AEC_{95} = annual energy consumption for the sample unit, as calculated in section 5.3 of this appendix, for cooling mode operation at test condition 1 in Table 1 of this appendix that represents operation at a 95 °F dry-bulb outdoor temperature operating condition, in kWh/year.

AEC_{83_SS} = annual energy consumption for a theoretical comparable single-speed portable air conditioner in cooling mode at test condition 2 in Table 1 of this appendix, calculated in section 5.5.5 of this appendix, in kWh/year.

AEC_T = total annual energy consumption attributed to all operating modes except cooling for the sample unit, calculated in section 5.3 of this appendix, in kWh/year.

750 and 0.001 as defined previously in this section.

0.2 = weighting factor for the 95 °F dry-bulb outdoor temperature operating condition.

0.8 = weighting factor for the 83 °F dry-bulb outdoor temperature operating condition.''

VII. Additional Justification for Interim Waiver Application

a. There Is a Strong Likelihood That the Waiver Will Be Granted

This Petition provides strong evidence that the Waiver will be granted. A Waiver is appropriate because the current test procedure does not accurately reflect the energy efficiency of models with VSCs since it tests only in the full load condition at two test points. These compressors can vary the rotational speed based upon the difference in unit set-point and the ambient temperature of the conditioned space, and will optimize the energy usage based on these conditions that can result in a greater compressor speed at less load. A PAC without a VSC cannot operate in this fashion as the compressor is either on at full capacity or off. The test procedure in the waiver granted to LG published on June 2, 2020, will account for energy being used at different test conditions with some modification for Midea's units.

Additionally, the current test procedure does not account for Midea's unique combined- duct technology that requires special provisions to measure the inlet and outlet condenser airflow and measure the duct heat transfer. Midea has also demonstrated that its approach is consistent with waivers granted by DOE to other manufacturers with VSC technology.

b. Economic Hardship Would Be Caused by Denial of an Interim Waiver

In the absence of an Interim Waiver, Midea will lack certainty as to whether it can launch these combined-duct PACs with VSCs. Midea believes there will be strong consumer demand for these PACs, and the inability to market due to the denial of an Interim Waiver will cause economic hardship and competitive disadvantage to Midea. This is because there are exceptionally long lead times and significant expenses associated with the design and manufacturer of PACs. Compliance with energy consumption standards is a critical design factor for all of Midea's PACs. Any delay in obtaining clarity on this issue will force Midea to postpone key decisions regarding its investments to build, launch and market these PACs. In the event that this Interim Waiver is not approved, Midea would not be able to move forward with the launch of these models, resulting in a multi-million-dollar impact to the company and would require costly contingency plans and put us at a competitive disadvantage to competitors.

C. Sound Public Policy Supports Grant of the Interim Waiver

The grant of an Interim Waiver is also supported by sound public policy. The models for which an interim waiver is sought utilize technological advances that increase energy efficiency, reduce energy consumption, lower costs for consumers, and provide enhanced comfort.

Conclusion

Midea respectfully requests that DOE grant this Petition for Waiver and Application for Interim Waiver. By granting this Waiver, DOE will ensure that consumers will have access to new, innovative and energy efficient combined-duct PACs with and without VSCs.

Respectfully submitted,

/s/

Scott Blake Harris

John Hodges

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[FR Doc. 2021–07025 Filed 4–5–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Waiver Period for Water Quality Certification Application

	Project No.
Eagle Creek Hydro Power, LLC Eagle Creek Water Resources, LLC Eagle Creek Land Resources, LLC	10482–122
Eagle Creek Hydro Power, LLC Eagle Creek Water Resources, LLC Eagle Creek Land Resources, LLC	10481–069
Eagle Creek Hydro Power, LLC Eagle Creek Water Resources, LLC Eagle Creek Land Resources, LLC	9690–115

On March 30, 2021, Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, and Eagle Creek Land Resources, LLC (co-licensees) submitted to the Federal Energy Regulatory Commission a copy of their application for a Clean Water Act section 401(a)(1) water quality certification filed with the New York State Department of Environmental Conservation (New York DEC), in conjunction with the above captioned projects. Pursuant to 40 CFR 121.6, we hereby notify the New York DEC of the following:

Date of Receipt of the Certification Request: March 30, 2021.

Reasonable Period of Time to Act on the Certification Request: One year.

Date Waiver Occurs for Failure to Act: March 30, 2022.

If the New York DEC fails or refuses to act on the water quality certification request by the above waiver date, then the agency's certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: March 31, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–07076 Filed 4–5–21; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER15–705–008.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: Compliance filing CCSF IA and TFAs Following Order on Compliance (TO SA 284) to be effective 7/23/2015.

Filed Date: 3/30/21.

Accession Number: 20210330–5158

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER15–705–009.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: Compliance filing CCSF IA and TFAs Following Order on Compliance (TO SA 284) to be effective 7/1/2015.

Filed Date: 3/30/21.

Accession Number: 20210330–5159.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER15–2013–010; ER12–2510–009; ER15–2014–005; ER10–2435–016; ER10–2440–012; ER10–2442–014; ER12–2512–009; ER19–481–002; ER15–2018–005; ER18–2252–001; ER10–3286–013; ER15–2022–005; ER10–3299–012; ER10–2444–016; ER10–2446–012; ER15–2026–005; ER15–2020–008; ER10–2449–014; ER19–2250–002.

Applicants: Talen Energy Marketing, LLC, Brandon Shores LLC, Brunner Island, LLC, Camden Plant Holding, L.L.C., Dartmouth Power Associates Limited Partnership, Elmwood Park Power, LLC, H.A. Wagner LLC, LMBE Project Company LLC, Martins Creek, LLC, MC Project Company LLC, Millennium Power Partners, LP, Montour, LLC, New Athens Generating Company, LLC, Newark Bay Cogeneration Partnership, L.P, Pedricktown Cogeneration Company LP, Susquehanna Nuclear, LLC, Talen Montana, LLC, York Generation Company LLC, TrailStone Energy Marketing, LLC.

Description: Supplement to April 27, 2020 Notification of Change in Status of the Indicated MBR Sellers.

Filed Date: 3/29/21.

Accession Number: 20210329–5273.

Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–772–000.

Applicants: Resi Station, LLC.

Description: Response to February 24, 2021 Deficiency Letter of Resi Station, LLC.

Filed Date: 3/26/21.

Accession Number: 20210326–5228.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–787–001.

Applicants: ISO New England Inc.

Description: Tariff Amendment: ISO New England Inc.; Response to Commission Deficiency Notice; ER21–787–000 to be effective 5/29/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5269.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1553–000.

Applicants: Luna Storage, LLC.

Description: § 205(d) Rate Filing: Luna Storage, LLC MISA Certificate of Concurrence to be effective 3/31/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5002.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1554–000.

Applicants: Luna Storage, LLC.

Description: § 205(d) Rate Filing: Luna Storage, LLC LGIA Certificate of Concurrence to be effective 3/31/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5003.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1555–000.

Applicants: New Mexico Wind, LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 3/31/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5004.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1556–000.

Applicants: TGE Pennsylvania 202, LLC, TGE Pennsylvania 203, LLC.

Description: Petition for Waiver, et al. of TGE Pennsylvania 202, LLC, et al.

Filed Date: 3/29/21.

Accession Number: 20210329–5316.

Comments Due: 5 p.m. ET 4/8/21.

Docket Numbers: ER21–1557–000.

Applicants: Leeward Renewable Energy, LLC.

Description: Petition for Limited Waiver, et al. of Leeward Renewable Energy, LLC.

Filed Date: 3/29/21.

Accession Number: 20210329–5317.
Comments Due: 5 p.m. ET 4/8/21.

Docket Numbers: ER21–1558–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1276R23 Evergy Metro NITSA NOA to be effective 3/1/2021.
Filed Date: 3/30/21.
Accession Number: 20210330–5118.
Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1559–000.
Applicants: Duke Energy Indiana, LLC.
Description: § 205(d) Rate Filing: DEI—Revisions to FERC Electric Tariff Volume No. 10, Reactive Tariff to be effective 6/1/2021.
Filed Date: 3/30/21.
Accession Number: 20210330–5194.
Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1560–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–03–30_SA 2294 ATC–DTE Garden Wind Farm 5th Rev GIA (J060 J061 J557 J928) to be effective 3/11/2021.
Filed Date: 3/30/21.
Accession Number: 20210330–5195.
Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1561–000.
Applicants: Duke Energy Florida, LLC.
Description: § 205(d) Rate Filing: Revised DEF Rate Schedule No. 226 (Seminole Electric Cooperative, Inc.) (Second) to be effective 6/1/2021.
Filed Date: 3/30/21.
Accession Number: 20210330–5268.
Comments Due: 5 p.m. ET 4/20/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–13–000.
Applicants: Upper Peninsula Power Company.
Description: Application of Upper Peninsula Power Company to Terminate Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.
Filed Date: 3/26/21.
Accession Number: 20210326–5284.
Comments Due: 5 p.m. ET 4/23/21.

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 30, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–07006 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2292–153]

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for approval of a Drawdown Plan and temporary variance of reservoir elevation and run-of-river requirements.

b. Project No.: 2292–153.

c. *Date Filed:* February 17, 2021 and supplemented March 12 and 26, 2021.

d. *Applicant:* Domtar Wisconsin Corporation.

e. *Name of Project:* Nekoosa Dam Hydroelectric Project.

f. *Location:* The project is located on the Wisconsin River in Wood County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. David S. Orcutt, Environmental Manager, Domtar Wisconsin Corporation, 301 Point Basse Ave., Nekoosa, WI 54457–1422, Phone: (715) 886–7358, Email: *david.orcutt@domtar.com.*

i. *FERC Contact:* Anumzziatta Purchiaroni, (202)502–6191, *anumzziatta.purchiaroni@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* 15 days from the date of this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2292–029. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests Commission approval of a Drawdown Plan and a temporary variance of the reservoir elevation and run-of-river requirements for the Nekoosa Hydroelectric Project No. 2292. The licensee is requesting the drawdown to perform concrete repairs on the Nekoosa Dam intake structure and overflow spillway, as well as improvements to the spillway flashboard sections. The licensee proposes to lower the reservoir 941.3 feet NGVD, which correlates to 5.0 feet below the minimum elevation of 946.3 feet NGVD required by the project license. The licensee plans to begin the drawdown by June 8 and be completed by June 14, 2021. The licensee plans to start the refilling of the reservoir as soon as the activities requiring the drawdown are completed, which would be approximately 11 weeks. The licensee will restrict the drawdown to a maximum rate of 12 inches per day. During the refill of the reservoir, the licensee would release less than 1,000 cubic feet per second of water flow through the dam.

l. *Locations of the Applications:* This filing may be viewed on the

Commission's website at *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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''MOTION TO INTERVENE'', or ''PROTEST'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: March 30, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–06985 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM16–17–000]

Data Collection for Analytics and Surveillance and Market-Based Rate Purposes

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed revision of collected information; request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to collect additional data from certain market-based rate (MBR) sellers with ultimate upstream affiliates that have been granted blanket authorization. The Commission proposes revisions to the data dictionary that accompanies the relational database established in Order No. 860 to include new requirements for those MBR sellers to report connections to an entity whose securities were acquired pursuant to the blanket authorization. In addition, the Commission plans to request approval from the Office of Management and Budget (OMB) for this collection of information.

DATES: Comments are due June 7, 2021.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways. Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.
  - *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (Including Courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

The Comment Procedures Section of this document contains more detailed filing procedures.

FOR FURTHER INFORMATION CONTACT:

Ryan Stertz (Technical Information), Office of Energy Market Regulation, Federal Energy Regulation Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6473, *Ryan.Stertz@ferc.gov.*

Regine Baus (Legal Information), Office of the General Counsel, Federal Energy Regulation Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8757, *Regine.Baus@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. In this Notice, the Commission requests comments on a proposal to collect additional data from certain market-based rate (MBR) sellers (Sellers) [1] through revisions to the data dictionary and XML schema that accompany the relational database established in Order No. 860 (MBR Data Dictionary).[2] Specifically, the Commission proposes revisions to the MBR Data Dictionary to require that Sellers whose ultimate upstream affiliate(s) [3] own their voting securities pursuant to a section 203(a)(2) blanket authorization, provide in the relational database the docket number of the section 203(a)(2) blanket authorization, and the utility ID types and the utility IDs of the upstream affiliates whose securities were acquired pursuant to that section 203(a)(2) blanket authorization.[4]

I. Background

2. On July 18, 2019, the Commission issued Order No. 860, which revised certain aspects of the substance and format of information Sellers submit to the Commission for market-based rate purposes. Among other things, the Commission adopted the approach to collect market-based rate information in a relational database.[5] The Commission also specified that any significant changes to the MBR Data Dictionary will be proposed in a Commission order or rulemaking, which would provide an opportunity for comment.[6]

3. In support, the Commission explained that the relational database

[1] A Seller is defined as any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under section 205 of the Federal Power Act (FPA). 18 CFR 35.36(a)(1); 16 U.S.C. 824d.

[2] *Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* Order No. 860, 168 FERC ¶ 61,039 (2019), *order on reh'g and clarification,* Order No. 860–A, 170 FERC ¶ 61,129 (2020).

[3] ''Ultimate upstream affiliate'' is defined as the furthest upstream affiliate(s) in the ownership chain—*i.e.,* each of the upstream of affiliate(s) of a Seller, who itself does not have 10% or more of its outstanding securities owned, held or controlled, with power to vote, by any person (including an individual or company). Order No. 860, 168 FERC ¶ 61,039 at P 5 n.10; *see also* 18 CFR 35.36(a)(10). ''Upstream affiliate'' means any entity described in § 35.36(a)(9)(i). 18 CFR 35.36(a)(10).

[4] For purposes of this order, ''utilities'' are defined as transmitting utilities, electric utility companies, or holding company systems containing such entities.

[5] Order No. 860, 168 FERC ¶ 61,039 at P 4.

[6] *Id.* P 220.

construct provides for a more modern and flexible format for the reporting and retrieval of information. The Commission noted that Sellers will be linked to their market-based rate affiliates through common ultimate upstream affiliate(s) and that, through this linkage, the relational database will allow for the automatic generation of a complete asset appendix based solely on the information submitted into the relational database.[7]

4. The Commission required that, as part of its market-based rate application or baseline submission, a Seller must identify through the relational database its ultimate upstream affiliate(s). Because this is a characteristic the Commission will rely upon in granting market-based rate authority, the Commission specified that Sellers must also inform the Commission when they have a new ultimate upstream affiliate as part of their change in status reporting obligations. The Commission also required that any new ultimate upstream affiliate information must also be submitted into the relational database and any changes updated on a monthly basis.[8]

II. Discussion

A. Petition for Declaratory Order

5. In Docket No. EL21–14–000, NextEra Energy, Inc., American Electric Power Company, Inc., Evergy, Inc., Exelon Corporation, and Xcel Energy Services Inc. on behalf of Xcel Energy Inc. (Petitioners) filed a petition for declaratory order (Petition) regarding, among other things, affiliation under FPA section 205 of an institutional investor that has been granted blanket authorization under FPA section 203(a)(2). Specifically, Petitioners request that the Commission find that no affiliation arises under section 205 when institutional investors acquire up to 20% of the voting securities of utilities pursuant to a section 203(a)(2) blanket authorization order.

6. While we are denying the Petition in a concurrently issued order, we are providing guidance that will address, in part, the concerns Petitioners raise.[9] As discussed more fully in the order denying the Petition, we disagree with Petitioners that no affiliation arises under section 205 when institutional investors acquire up to 20% of the voting securities of utilities pursuant to a section 203(a)(2) blanket authorization order.[10] However, we agree with Petitioners that, as a result of the conditions in a section 203(a)(2) blanket authorization order, the institutional investors subject to that order lack the ability to control the utilities whose voting securities they acquire. Accordingly, because those conditions prevent institutional investors from exercising control over those utilities, utilities commonly owned by an institutional investor are not affiliates of each other under 18 CFR 35.36(a)(9)(iv),[11] so long as their institutional investor owners remain under the conditions imposed in its section 203(a)(2) blanket authorization order. As a result, the Commission's various affiliate restrictions would not apply between utilities, including market-based rate sellers, whose securities are owned by a common institutional investor pursuant to a section 203(a)(2) blanket authorization.[12]

7. However, the relational database, as contemplated under Order Nos. 860 and 860–A, does not provide for a method to distinguish between ultimate upstream affiliates and those ultimate upstream affiliates that acquired the securities of the Seller through a section 203(a)(2) blanket authorization. Accordingly, we propose changes to the MBR Data Dictionary so that the relational database can accurately reflect the affiliations, or lack of affiliation, among Sellers for which their ultimate upstream affiliate is an institutional investor who acquired their securities pursuant to a section 203(a)(2) blanket authorization.

B. Changes to the MBR Data Dictionary

8. We propose to collect certain data in the relational database for purposes of generating accurate asset appendices when the voting securities of a Seller or a Seller's upstream affiliate have been acquired, 10% or more, pursuant to a section 203(a)(2) blanket authorization. This new requirement would only be required for Sellers with upstream affiliates whose securities have been acquired, 10% or more, pursuant to a section 203(a)(2) blanket authorization; thus, there will be no burden on other Sellers.

9. Specifically, this Notice proposes to update the MBR Data Dictionary and add three new attributes to the Entities to Entities table. These new attributes are: The blanket authorization docket number, and the utility ID types and the utility IDs of the utilities whose securities were purchased under the corresponding blanket authorization docket number. The appropriate Sellers would be required to submit the docket number of the proceeding in which the Commission granted the section 203(a)(2) blanket authorization and the upstream affiliate whose securities were acquired pursuant to the section 203(a)(2) blanket authorization.

10. We believe that these new attributes are necessary to prevent the connection of unaffiliated entities when auto-generating asset appendices, consistent with our findings in *NextEra.* The draft of the Entities to Entities table in MBR Data Dictionary which describes these fields in detail is attached in Appendix A. We seek comment on these changes.

11. We anticipate that the MBR Data Dictionary with appropriate validations will be posted on the Commission website upon issuance of a final order in this proceeding.

C. Impact on the Asset Appendix

12. As discussed in Order No. 860, the relational database will auto-generate a Seller's asset appendix based on the information that is submitted into the relational database.[13] Currently, the ultimate upstream affiliate information is used to connect affiliates through this common affiliate in all instances. However, as currently constructed, the relational database would erroneously link companies through common ultimate upstream affiliates when the securities of a Seller's upstream affiliate were acquired pursuant to a section 203(a)(2) blanket authorization. Consistent with our findings in *NextEra,* we propose that, under these circumstances, the relational database instead link MBR affiliates through the upstream affiliate whose securities were acquired pursuant to the section 203(a)(2) blanket authorization, with the aim of providing the information needed, while limiting the burden.

[7] Order No. 860, 168 FERC ¶ 61,039 at PP 5–6. ''Once a Seller identifies its own assets, the assets of its affiliates without market-based rate authority, and its ultimate upstream affiliate(s), the relational database will contain sufficient information to allow the Commission to identify all of that Seller's affiliates (*i.e.,* those with a common ultimate upstream affiliate) to create a complete asset appendix for the Seller, which includes all of its affiliates' assets.'' *Id.* P 40.

[8] *Id.* P 121.

[9] *NextEra Energy, Inc.,* 174 FERC ¶ 61,213 (2021) (*NextEra*).

[10] *Id.*

[11] Under § 35.36(a)(9)(iv), an affiliate of a specified company can also mean ''[a]ny person that is under common control with the specified company.'' 18 CFR 35.36(a)(9)(iv).

[12] This does not mean that such utilities could never be considered affiliates based on other factors. For example, if public utilities have a common upstream affiliate whose ownership of those public utilities is not subject to a section 203(a)(2) blanket authorization, these public utilities are affiliates of each other under 18 CFR 35.36(a)(9)(iv). *See NextEra,* 174 FERC ¶ 61,213 at P 52 n.80.

[13] Order No. 860, 168 FERC ¶ 61,039 at P 16 n.26.

III. Information Collection Statement

13. The Paperwork Reduction Act (PRA) [14] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB regulations [15] require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this proposal will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number.

14. We plan to request OMB approval for a revision of FERC–919A (Refinements to Policies and Procedures for Market Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities), OMB Control Number 1902–0317. We solicit comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

15. The proposal in this Notice will affect Sellers that have ultimate upstream affiliates that hold their voting securities pursuant to section 203(a)(2) blanket authorizations. Sellers continue to be required to report institutional investors who own 10% percent or more of their voting shares pursuant to section 203(a)(2) blanket authorizations as their reportable ultimate upstream affiliate in the relational database. However, the proposal herein would also require these Sellers to identify their upstream affiliate(s) whose securities have been acquired, 10% or more, pursuant to a section 203(a)(2) blanket authorization. This requirement includes submitting into the relational database the docket number of the order granting the institutional investor section 203(a)(2) blanket authorization, the identifier of the upstream affiliate(s) whose securities were acquired pursuant to the section 203(a)(2) blanket authorization, and the type of identifier reported. The proposal would not impose any additional reporting requirements for Sellers whose ultimate upstream affiliates do not hold their voting securities pursuant to section 203(a)(2) blanket authorizations.

16. There are approximately 2,647 Sellers that will submit information into the relational database. Six institutional investors currently have section 203(a)(2) blanket authorizations, which collectively own approximately 110 upstream affiliates that themselves own Sellers. We are estimating an average of four Sellers affected for every upstream affiliate, equaling 440 total sellers. Under this proposal, Sellers whose ultimate upstream affiliates hold their voting securities pursuant to section 203(a)(2) blanket authorizations would be required to report the upstream affiliate(s) whose securities have been acquired pursuant to a section 203(a)(2) blanket authorization, and certain information pertaining to the institutional investors, as described above.

17. *Burden Estimate:* The estimated burden and cost [16] for the requirements proposed in this Notice follow. Our estimate is limited to the proposal to require Sellers reporting institutional investors with section 203(a)(2) blanket authorizations as their ultimate upstream affiliates to add information on the upstream affiliate(s) whose securities have been acquired pursuant to a section 203(a)(2) blanket authorization in the above-noted fields within the relational database.

18. The following table summarizes the average estimated annual burden and cost changes due to this notice seeking comments and includes the estimate from Order 860 being replaced here: [17]

[14] 44 U.S.C. 3501–3520.

[15] 5 CFR 1320.

[16] The estimated hourly cost burden for respondents—$93.08—is the average of mean hourly wages from May 2019 Bureau of Labor Statistics (BLS) data at *http://www.bls.gov/oes/current/oes_nat.htm,* and BLS benefits data at *http://www.bls.gov/news.release/ecec.nr0.htm* for the following occupations: Legal Occupations (23–0000), Computer and Information Systems Managers (11–3021), Computer and Mathematical Occupations (15–0000), and Information and Record Clerks (43–4199).

[17] We estimate that the additional burden of reporting this information will have a net decrease in overall burden because sellers will no longer be affiliated through common ultimate upstream affiliates with blanket authorizations, as contemplated in Order Nos. 860 and 860–A. We conservatively estimate that the net effect on the impacted sellers reporting this information will be zero.

Respondent/incremental burden category	Number of respondents [18]	Number of responses per respondent	Number of responses (B * C)	Burden hours per response	Hourly cost ($) per response	Total annual burden hours (D * E)	Total cost ($) (F * G)
A.	B.	C.	D.	E.	F.	G.	H.
First Year, proposed incremental cost associated with the collection of reporting connections to an entity whose securities were acquired pursuant to a blanket authorization (Increase due to this notice seeking comments)							
Impacted Sellers, as proposed in this Notice.	440	1	440	2	93.08	880	81,910.40.
Ongoing collection of reporting connections to an entity whose securities were acquired pursuant to a blanket authorization							
Impacted Sellers, as proposed in this Notice.	440	1	440	68	93.08	29,920	2,784,953.60.
Original estimate in Order 860, being replaced by the estimates above in this Notice							
Original estimate in Order 860, being replaced by & subtracted in this Notice—Impacted Sellers Original Estimate [19].	440	1	−440	70 [former estimate, being replaced].	93.08	−29,920 [former estimate, being replaced].	−2,866,864.00 [former estimate, being replaced].
					Cost Difference from Original Estimate in Order 860		−81,910.40 [reduction].
					First Year Incremental Cost Total, due to this Notice		81,910.40.
					Net (of above 2 rows) Additional Cost, due to this Notice		0.

IV. Environmental Analysis

19. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[20] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[21] The actions proposed here fall within a categorical exclusion in the Commission's regulations, *i.e.,* they involve information gathering, analysis, and dissemination.[22] Therefore, environmental analysis is unnecessary and has not been performed.

V. Regulatory Flexibility Act

20. The Regulatory Flexibility Act of 1980 (RFA) [23] generally requires a description and analysis of proposed 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 proposed rule and minimize any significant economic impact on a substantial number of small entities. In lieu of preparing a regulatory flexibility analysis, an agency may certify that a proposed rule will not have a significant economic impact on a substantial number of small entities.

21. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[24] The SBA size standard for electric utilities is based on the number of employees, including affiliates.[25] Under SBA's current size standards, an electric utility (one that falls under NAICS codes 221122 [electric power distribution, with a small business threshold of 1,000 employees], 221121 [electric bulk power transmission and control, with a small business threshold of 500 employees], or 221118 [other electric power generation, with a small business threshold of 250 employees]) [26] are small if it, including its affiliates, employs 1,000 or fewer people.[27]

22. Of the 440 affected entities discussed above, we estimate that none of these will be small entities. Therefore, no small entities will incur additional cost due to this Notice. Accordingly, we certify that this Notice will not have a significant economic impact on a substantial number of small entities.

VI. Comment Procedures

23. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due June 7, 2021. Comments must refer to Docket No. RM16–17–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

24. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

[18] We are estimating an average of four sellers affected for every upstream affiliate, equaling 440 total sellers.

[19] Order No. 860, 168 FERC ¶ 61,039 at P 323.

[20] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[21] *Id.*

[22] 18 CFR 380.4.

[23] 5 U.S.C. 601–612.

[24] 13 CFR 121.101.

[25] 13 CFR 121.101.

[26] The North American Industry Classification System (NAICS) is an industry classification system that Federal statistical agencies use to categorize businesses for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. economy. United States Census Bureau, North American Industry Classification System, *https://www.census.gov/eos/www/naics/.*

[27] 13 CFR 121.201 (Sector 22—Utilities). To be conservative, we are using a small business threshold of 1,000 employees.

25. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier-or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

VII. Document Availability

26. 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 President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

27. 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.

28. 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.*

By direction of the Commission.

Issued: March 18, 2021.

Kimberly D. Bose,

Secretary.

Appendix A—Draft Data Dictionary Updating the Entities to Entities Table

[Mapping of reporting entities to ultimate upstream affiliates (gray rows auto-populated by database system were removed for readability)]

entities_to_entities		Description	Identifier type	Nullable	SQL type	Format	Validations
No.	Attribute						
6	record_type_cd	Indicates whether this is a new submission or a submission to update an existing record.	Options List: • New. • Update.	N	CHARACTER (6).	NA	Must either be ''New'' or ''Update'' if information is included in this table.
7	reference_id	Identifier of existing record being updated.	.....	Y	INTEGER	.....	Required if record_type_cd is ''Update.'' Must match an existing entry from the ''Entities to Entities ID'' column of the Entities to Entities Submitted Data Table, found here.
8	reportable_entity_ID_type_CD.	User selects one of the three identifier types it will provide for these 2 fields: —Company Identifier/CID of the reportable entity. (Required if available.) —Legal Entity Identifier/LEI of the reportable entity. (Required if available and CID is not available.) —FERC generated ID/GID of the reportable entity. (Required if CID and LEI are not available.)	Options List: • CID. • LEI. • GID.	N	CHARACTER (3).	.....	Must be ''CID,'' ''LEI,'' or ''GID.''
9	reportable_entity_ID.	CID, LEI, or GID for the entity being reported.	Foreign Key (CID). Foreign Key (LEI). Foreign Key (GID).	N	CHARACTER (7). CHARACTER (20). CHARACTER (10).	.....	Must match an active record identifier. These identifiers can be found using General Search, found here.
10 ...	Blanket_Auth_Docket_Number.	Docket number of the section 203(a)(2) blanket authorization.	.....	Y	CHARACTER VARYING (15).	XXXX–X–XXX; XXXX–XX–XXX; XXXX–XXX–XXX; or XXXX–XXXX–XXX	Required if the Reportable Entity received a 203(a)(2) blanket authorization. Common relationships through ultimate upstream affiliates with these authorizations do not impact a seller's Asset Appendix.
11 ...	Utility_ID_Type_CD.	User selects one of the three identifier types it will provide for these 2 fields: —Company Identifier/CID of the reportable entity. (Required if available.) —Legal Entity Identifier/LEI of the reportable entity. (Required if available and CID is not available.) —FERC generated ID/GID of the reportable entity. (Required if CID and LEI are not available.)	Options List • CID. • LEI. • GID.	Y	CHARACTER (3).	.....	Required if the Reportable Entity received a 203(a)(2) blanket authorization. Must be either ''CID,'' ''LEI,'' or ''GID.''

APPENDIX A—DRAFT DATA DICTIONARY UPDATING THE ENTITIES TO ENTITIES TABLE—Continued

[Mapping of reporting entities to ultimate upstream affiliates (gray rows auto-populated by database system were removed for readability)]

entities_to_entities		Description	Identifier type	Nullable	SQL type	Format	Validations
No.	Attribute						
12 ...	Utility_ID	CID, LEI, or GID for the entity whose securities were acquired pursuant to the blanket authorization.	Foreign Key (CID). Foreign Key (LEI). Foreign Key (GID).	Y	CHARACTER (7). CHARACTER (20). CHARACTER (10).	.....	Required if the Reportable Entity received a 203(a)(2) blanket authorization. Common relationships through this utility are used to identify affiliations in the asset appendix. Must match an active record identifier. These identifiers can be found using General Search, found here.
13 ...	relationship_start_date.	Date reported relationship started	.....	N	DATE	YYYY–MM–DD (ANSI).	Valid date.
14 ...	relationship_end_date.	Date reported relationship ended	.....	Y	DATE	YYYY–MM–DD (ANSI).	Valid date. Value must be ≥ relationship_start_date.

[FR Doc. 2021–06092 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR21–6–000]

Cactus II Pipeline LLC; Notice of Petition for Declaratory Order

Take notice that on March 25, 2021, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2019), Cactus II Pipeline LLC (Petitioner) hereby petitions the Commission to issue a declaratory order approving the requested rulings set forth in its Petition related to the ''Cactus II Pipeline,'' which is an existing pipeline system that transports crude oil from locations in the Permian Basin to South Texas, along the U.S. Gulf Coast, all 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 CFR385.211, 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 theproceeding. 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 onor before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://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 with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 26, 2021.

Dated: March 31, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–07074 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–659–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Compliance filing 3.29.21 Annual Fuel and Losses Retention Calculations.

Filed Date: 3/29/21.

Accession Number: 20210329–5043.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: RP21–660–000.

Applicants: Bison Pipeline LLC.

Description: Compliance filing Company Use Gas Annual Report 2021.

Filed Date: 3/29/21.

Accession Number: 20210329–5054.

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 30, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–07009 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC20–10–000]

Commission Information Collection Activities (FERC Form Nos. 2 and 2–A); Comment Request; Extension; Errata Notice

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection; errata notice.

SUMMARY: This notice corrects the 60-day notice published on April 30, 2020 (85 FR 23954), 30-day notice published on July 20, 2020 (85 FR 43831), and the errata notice published on September 14, 2020 (85 FR 56597).

DATES: Comments for the notice of information collection, were due October 14, 2020 (85 FR 56597).

SUPPLEMENTARY INFORMATION:

Title: FERC Form No. 2, Annual Report for Major Natural Gas Companies, and FERC Form No. 2–A, Annual Report for Non-Major Natural Gas Companies.

OMB Control Nos.: 1902–0028 (FERC Form No. 2), and 1902–0030 (FERC Form No. 2–A).

This notice replaces and corrects the 60-day notice published on April 30, 2020 (85 FR 23954), 30-day notice published on July 20, 2020 (85 FR 43831) and the errata notice published on September 14, 2020 (85 FR 56597). No public comments were received on either the 60-day notice or the 30-day notice.

The burden and cost estimates are being corrected to remove an erroneous double entry representing the industry burden of preparing and submitting in XBRL carried over from RM19–12 (approved by OMB in September 2019). The Commission is correcting the estimates for the annual public reporting burden and cost [1] for the information collections as shown in the table pertaining to the rows for both Form Nos. 2 and 2–A labelled ''Burden to Prepare and Submit in XBRL (represented using the same number of respondents and responses normally received annually).'' The burden hours per response for FERC Form No. 2 are being corrected for a total of 1,671.6 burden hours (1,629 burden hours for the reporting requirements plus 42.66 burden hours for the XBRL implementation and maintenance). These corrections remove an erroneous double entry of 42.66 hours for the XBRL implementation and development requirements. In addition, the burden hours per response for FERC Form No. 2–A are being similarly corrected for a total of 296 burden hours (253 burden hours for the reporting requirement plus 42.66 burden hours for the XBRL implementation and maintenance).

In summary, the existing row pertaining to the ''Burden to Comply with the Filing Requirement'' inadvertently included the additional burden related to XBRL implementation and maintenance that was also listed in a separate row. Accordingly, to correct this erroneous double entry, we are removing 42.66 burden hours from the row titled ''Burden to Comply with Filing Requirement'' and from the total burden hours for each response for FERC Form Nos. 2 and 2–A.

Dated: March 31, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–07080 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

[1] The Commission staff believes the FERC FTE (full-time equivalent) average cost for wages plus benefits is representative of the corresponding cost for the industry respondents. Based upon the FERC's 2019 average cost for salary plus benefits, the average hourly cost is $80/hour.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 96–048]

Pacific Gas and Electric Company; Notice of Teleconference

a. *Project Name and Number:* Kerckhoff Hydroelectric Project No. 96.

b. *Project Licensee:* Pacific Gas and Electric Company (PG&E).

c. *Date and Time of Teleconference:* Monday, April 19, 2021 from 3:00 p.m. to 4:30 p.m. Eastern Standard Time.

d. *FERC Contact:* Evan Williams, (202) 502–8462 or *Evan.Williams@ferc.gov*.

e. *Purpose of Meeting:* Commission staff will hold a teleconference with PG&E and stakeholders to discuss issues related to, and options for, moving forward with the approved Whitewater Boating Assessment (REC 1), Run 1 and Run 2 Flow Studies.

f. Please call or email Evan Williams at (202) 502–8462 or *Evan.Williams@ferc.gov* by Thursday, April 15, 2021, to RSVP and to receive the teleconference call-in information.

Dated: March 31, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–07073 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–659–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Compliance filing 3.29.21 Annual Fuel and Losses Retention Calculations.

Filed Date: 3/29/21.

Accession Number: 20210329–5043.

Comments Due: 5 p.m. ET 4/12/21.

Docket Numbers: RP21–660–000.

Applicants: Bison Pipeline LLC.

Description: Compliance filing Company Use Gas Annual Report 2021.

Filed Date: 3/29/21.

Accession Number: 20210329–5054.

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 30, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–07008 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Revocation of Market-Based Rate Authority and Termination of Electric Market-Based Rate Tariff

	Docket Nos.
Electric Quarterly Reports	ER02–2001–020
Palama LLC	ER10–2809–000
City Power Marketing, LLC	ER10–3157–000
Oracle Energy Services, LLC	ER11–2436–000
EmpireCo Limited Partnership	ER11–2882–001
Allied Energy Resources Corporation.	ER11–4722–000
Entra Energy LLC	ER12–1137–000
BlueRock Energy, Inc	ER12–1269–000
Power Dave Fund LLC	ER12–2217–004
ESS Lewes Project, LLC	ER17–3–001
ESS Snook Project, LLC	ER17–94–001

On February 24, 2021, the Commission issued an order announcing its intent to revoke the market-based rate authority of several public utilities that had failed to file their required Electric Quarterly Reports.[1] The Commission directed those public utilities to file the required Electric Quarterly Reports within 15 days of the date of issuance of the order or face revocation of their authority to sell power at market-based rates and termination of their electric market-based rate tariffs.[2]

The time period for compliance with the February 24 Order has elapsed. The above-captioned companies failed to file their delinquent Electric Quarterly Reports. The Commission hereby revokes, effective as of the date of issuance of this notice, the market-based rate authority and terminates the electric market-based rate tariff of each of the companies which are named in the caption of this order.

Dated: March 31, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–07071 Filed 4–5–21; 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 rate filings:

Docket Numbers: ER15–705–008.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: Compliance filing CCSF IA and TFAs Following Order on Compliance (TO SA 284) to be effective 7/23/2015.

Filed Date: 3/30/21.

Accession Number: 20210330–5158.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER15–705–009.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: Compliance filing CCSF IA and TFAs Following Order on Compliance (TO SA 284) to be effective 7/1/2015.

Filed Date: 3/30/21.

Accession Number: 20210330–5159.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER15–2013–010; ER12–2510–009; ER15–2014–005; ER10–2435–016; ER10–2440–012; ER10–2442–014; ER12–2512–009; ER19–481–002; ER15–2018–005; ER18–2252–001; ER10–3286–013; ER15–2022–005; ER10–3299–012; ER10–2444–016; ER10–2446–012; ER15–2026–005; ER15–2020–008; ER10–2449–014; ER19–2250–002.

Applicants: Talen Energy Marketing, LLC, Brandon Shores LLC, Brunner Island, LLC, Camden Plant Holding, L.L.C., Dartmouth Power Associates Limited Partnership, Elmwood Park Power, LLC, H.A. Wagner LLC, LMBE Project Company LLC, Martins Creek, LLC, MC Project Company LLC, Millennium Power Partners, LP, Montour, LLC, New Athens Generating Company, LLC, Newark Bay Cogeneration Partnership, L.P, Pedricktown Cogeneration Company LP, Susquehanna Nuclear, LLC, Talen Montana, LLC, York Generation Company LLC, TrailStone Energy Marketing, LLC.

Description: Supplement to April 27, 2020 Notification of Change in Status of the Indicated MBR Sellers.

Filed Date: 3/29/21.

Accession Number: 20210329–5273.

Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–772–000.

Applicants: Resi Station, LLC.

Description: Response to February 24, 2021 Deficiency Letter of Resi Station, LLC.

Filed Date: 3/26/21.

Accession Number: 20210326–5228.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–787–001

Applicants: ISO New England Inc.

Description: Tariff Amendment: ISO New England Inc.; Response to Commission Deficiency Notice; ER21–787–000 to be effective 5/29/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5269.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1553–000.

Applicants: Luna Storage, LLC.

Description: § 205(d) Rate Filing: Luna Storage, LLC MISA Certificate of Concurrence to be effective 3/31/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5002.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1554–000.

Applicants: Luna Storage, LLC.

Description: § 205(d) Rate Filing: Luna Storage, LLC LGIA Certificate of Concurrence to be effective 3/31/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5003.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1555–000.

Applicants: New Mexico Wind, LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 3/31/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5004.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1556–000.

Applicants: TGE Pennsylvania 202, LLC, TGE Pennsylvania 203, LLC.

Description: Petition for Waiver, et al. of TGE Pennsylvania 202, LLC, et al.

Filed Date: 3/29/21.

Accession Number: 20210329–5316.

Comments Due: 5 p.m. ET 4/8/21.

Docket Numbers: ER21–1557–000.

Applicants: Leeward Renewable Energy, LLC.

Description: Petition for Limited Waiver, et al. of Leeward Renewable Energy, LLC.

Filed Date: 3/29/21.

Accession Number: 20210329–5317.

Comments Due: 5 p.m. ET 4/8/21.

Docket Numbers: ER21–1558–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1276R23 Evergy Metro NITSA NOA to be effective 3/1/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5118.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1559–000.

Applicants: Duke Energy Indiana, LLC.

Description: § 205(d) Rate Filing: DEI—Revisions to FERC Electric Tariff Volume No. 10, Reactive Tariff to be effective 6/1/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5194.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1560–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–03–30_SA 2294 ATC–DTE Garden Wind Farm 5th Rev GIA (J060 J061 J557 J928) to be effective 3/11/2021.

Filed Date: 3/30/21.

[1] *Elec. Q. Rep,* 174 FERC ¶ 61,144 (2021) (February 24 Order).

[2] *Id.* at Ordering Paragraph A.

Accession Number: 20210330–5195.

Comments Due: 5 p.m. ET 4/20/21.

Docket Numbers: ER21–1561–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: Revised DEF Rate Schedule No. 226 (Seminole Electric Cooperative, Inc.) (Second) to be effective 6/1/2021.

Filed Date: 3/30/21.

Accession Number: 20210330–5268.

Comments Due: 5 p.m. ET 4/20/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–13–000.

Applicants: Upper Peninsula Power Company.

Description: Application of Upper Peninsula Power Company to Terminate Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 3/26/21.

Accession Number: 20210326–5284.

Comments Due: 5 p.m. ET 4/23/21.

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 30, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–07007 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–61–000]

George Berka v. Governor Andrew M. Cuomo, North American Electric Reliability Corporation, Northeast Power Coordinating Council, New York Independent System Operator, New York Public Service Commission, Entergy Corporation, Holtec Decommissioning International; Notice of Complaint

Take notice that on March 24, 2021, pursuant to Rules 206, 212, and 215(a)(1) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure (18 CFR 385.206, .212, & .215(a)(1)), George Berka filed a formal complaint against Governor Andrew M. Cuomo, North American Electric Reliability Corporation, Northeast Power Coordinating Council, New York Independent System Operator, New York Public Service Commission, Entergy Corporation, and Holtec Decommissioning International (Respondents) alleging that the Respondents plan to discontinue operation of Units 2 and 3 of the Indian Point Nuclear Power Plant. Mr. Berka requests that the Commission order continued operation until at least the year 2035.

The Complainant certifies that copies of the complaint were served on the Respondents.

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. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainants.

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.

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.

Comment Date: 5:00 p.m. Eastern Time on April 13, 2021.

Dated: March 30, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–06984 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP21–628–000]

Continental Resources, Inc. v. Northern Border Pipeline Company; Notice of Complaint

Take notice that on March 18, 2021, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Continental Resources, Inc. (Complainant) filed a formal complaint against Northern Border Pipeline Company (Northern Border or Respondent) alleging that Northern Border should be ordered to disgorge profits it earned in connection with capacity awards made to ONEOK Rockies Midstream, LLC, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

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. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainants.

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.

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.

Comment Date: 5:00 p.m. Eastern Time on April 19, 2021.

Dated: March 31, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–07070 Filed 4–5–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2021–0234; FRL–10022–12–OAR]

Alternative Method for Calculating Off-Cycle Credits Under the Light-Duty Vehicle Greenhouse Gas Emissions Program: Application From General Motors Corporation LLC (GM)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is requesting comment on an application from General Motors Corporation LLC (GM) for off-cycle carbon dioxide (CO_2) credits under EPA's light-duty vehicle greenhouse gas emissions standards. ''Off-cycle'' emission reductions can be achieved by employing technologies that result in real-world benefits, but where that benefit is not adequately captured on the test procedures used by manufacturers to demonstrate compliance with emission standards. EPA's light-duty vehicle greenhouse gas program acknowledges these benefits by giving automobile manufacturers several options for generating ''off-cycle'' CO_2 credits. Under the regulations, a manufacturer may apply for CO_2 credits for off-cycle technologies that result in off-cycle benefits. In these cases, a manufacturer must provide EPA with a proposed methodology for determining the real-world off-cycle benefit. GM has submitted an application that describes a methodology for determining off-cycle credits from technologies described in their application. Pursuant to applicable regulations, EPA is making this off-cycle credit calculation methodology available for public comment.

DATES: Comments must be received on or before May 6, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2021–0234, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Linc Wehrly, Office of Transportation and Air Quality, Compliance Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4286. Fax: (734) 214–4869. Email address: *wehrly.linc@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EPA's light-duty vehicle greenhouse gas (GHG) program provides three pathways by which a manufacturer may accrue off-cycle carbon dioxide (CO_2) credits for those technologies that achieve CO_2 reductions in the real world but where those reductions are not adequately captured on the test used to determine compliance with the CO_2 standards, and which are not otherwise reflected in the standards' stringency. The first pathway is a predetermined list of credit values for specific off-cycle technologies that may be used beginning in model year 2014.[1] This pathway allows manufacturers to use conservative credit values established by EPA for a wide range of technologies, with minimal data submittal or testing requirements, if the technologies meet EPA regulatory definitions. In cases where the off-cycle technology is not on the menu but additional laboratory testing can demonstrate emission benefits, a second pathway allows manufacturers to use a broader array of emission tests (known as ''5-cycle'' testing because the methodology uses five different testing procedures) to demonstrate and justify off-cycle CO_2 credits.[2] The additional emission tests allow emission benefits to be demonstrated over some elements of real-world driving not adequately captured by the GHG compliance tests, including high speeds, hard accelerations, and cold temperatures. These first two methodologies were completely defined through notice and comment rulemaking and therefore no additional process is necessary for manufacturers to use these methods. The third and last pathway allows

[1] See 40 CFR 86.1869–12(b).

[2] See 40 CFR 86.1869–12(c).

manufacturers to seek EPA approval to use an alternative methodology for determining the off-cycle CO_2 credits.[3] This option is only available if the benefit of the technology cannot be adequately demonstrated using the 5-cycle methodology. Manufacturers may also use this option to demonstrate reductions that exceed those available via use of the predetermined list.

Under the regulations, a manufacturer seeking to demonstrate off-cycle credits with an alternative methodology (*i.e.,* under the third pathway described above) must describe a methodology that meets the following criteria:

- Use modeling, on-road testing, on-road data collection, or other approved analytical or engineering methods;
- Be robust, verifiable, and capable of demonstrating the real-world emissions benefit with strong statistical significance;
- Result in a demonstration of baseline and controlled emissions over a wide range of driving conditions and number of vehicles such that issues of data uncertainty are minimized;
- Result in data on a model type basis unless the manufacturer demonstrates that another basis is appropriate and adequate.

In addition, the regulations specify the following requirements regarding an application for off-cycle CO_2 credits:

- A manufacturer requesting off-cycle credits must develop a methodology for demonstrating and determining the benefit of the off-cycle technology and carry out any necessary testing and analysis required to support that methodology.
- A manufacturer requesting off-cycle credits must conduct testing and/or prepare engineering analyses that demonstrate the in-use durability of the technology for the full useful life of the vehicle.
- The application must contain a detailed description of the off-cycle technology and how it functions to reduce CO_2 emissions under conditions not represented on the FTP and HFET compliance tests.
- The application must contain a list of the vehicle model(s) which will be equipped with the technology.
- The application must contain a detailed description of the test vehicles selected and an engineering analysis that supports the selection of those vehicles for testing.
- The application must contain all testing and/or simulation data required under the regulations, plus any other data the manufacturer has considered in the analysis.

Finally, the alternative methodology must be approved by EPA prior to the manufacturer using it to generate credits. As part of the review process defined by regulation, an application for credits using an alternative methodology submitted to EPA for consideration must be made available for public comment, unless EPA has previously approved the alternative methodology for determining credits and has chosen to waive the notice and comment period for an application that meets the regulatory requirements for such a waiver. Further, EPA retains the option to require a notice and opportunity for public comment in cases where a new application deviates in significant respects from a previously approved methodology or raises novel substantive issues.[4] EPA will consider public comments as part of its final decision to approve or deny the request for off-cycle credits.

II. Off-Cycle Credit Application

Pulse Width Modulated HVAC Brushless Motor Power Controller Technology

Using the alternative methodology approach discussed above, GM is requesting off-cycle greenhouse gas (''GHG'') credits for the use of the pulse width modulated (PWM) HVAC brushless motor (BLM) power controller technology. The company's analysis in their application yields a GHG credit equal to 0.4 grams CO2 per mile for passenger cars and trucks on vehicles equipped with this technology. The PWM BLM technology provides GHG reductions by improving the efficiency of the blower motor used in the heating, ventilation, and air conditioning (HVAC) system.

GM's request is for approval of a similar methodology and for the same amount of credits per vehicle granted in the Toyota request to EPA for off-cycle credit dated February 26, 2019 and subsequently granted in EPA decision document EPA–420–R–19–015. Details of Toyota's analysis and the approved request by Toyota can be found in the corresponding the manufacturer's applications.

III. EPA Decision Process

EPA has reviewed the application for completeness and is now making the application available for public review and comment as required by the regulations. The off-cycle credit application submitted by the manufacturer (with confidential business information redacted) has been placed in the public docket (see **ADDRESSES** section above) and on EPA's website at *https://www.epa.gov/vehicle-and-engine-certification/compliance-information-light-duty-greenhouse-gas-ghg-standards*.

EPA is providing a 30-day comment period on the application for off-cycle credits described in this notice, as specified by the regulations. The manufacturer may submit a written rebuttal of comments for EPA's consideration, or may revise an application in response to comments. After reviewing any public comments and any rebuttal of comments submitted by the manufacturer, EPA will make a final decision regarding the credit request. EPA will make its decision available to the public by placing a decision document on EPA's website at the same manufacturer-specific page described above.

Byron Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2021–07019 Filed 4–5–21; 8:45 am]

BILLING CODE 6560–50–P

[3] See 40 CFR 86.1869–12(d).

[4] See 40 CFR 86.1869–12(d)(2).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0947; FRL—10022–24–OAR]

Proposed Information Collection Request; Comment Request; Information Collection Request Renewal for the NO_X SIP Call

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Information Collection Request Renewal for the NO_X SIP Call'' (EPA ICR No. 1857.09, OMB Control No. 2060–0445) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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 December 31, 2021. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before June 7, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2006–0947, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epamail.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: Karen VanSickle, Clean Air Markets Division, Office of Atmospheric Programs (6204J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9220; fax number: (202) 343–2361; email address: *vansickle.karen@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: The NO_X SIP Call was created to reduce emissions of nitrogen oxides (NO_X) from power plants and other large combustion sources. NO_X is a prime ingredient in the formation of ground-level ozone (smog), a pervasive air pollution problem in many areas of the eastern United States. The NO_X SIP Call requires affected states to include certain provisions in their state implementation plans (SIPs) addressing emissions of NO_X that adversely affect air quality in other states. Although most large combustion sources affected under the NO_X SIP Call are also subject to monitoring requirements under the Acid Rain Program or the Cross-State Air Pollution Rule, this information collection is being renewed because some industrial sources in certain States are still required to monitor and report emissions data to EPA under these rules, so we will account for their burden. All data received by EPA will be treated as public information. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Form numbers: None.

Respondents/affected entities: Entities potentially affected by this action are those which participate in the NO_X SIP Call.

Respondent's obligation to respond: Mandatory (Sections 110(a) and 301(a) of the Clean Air Act).

Estimated number of respondents: EPA estimates that there are 356 units that will continue to conduct monitoring solely under the NO_X SIP call.

Frequency of response: Yearly, quarterly, occasionally.

Total estimated burden: 140,226 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $20,622,606 (per year), includes $9,194,261 annualized capital or operation & maintenance costs.

Changes in estimates: There is an increase of 8,281 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to assumptions made in the previous ICR regarding the number of respondents. In the previous ICR, EPA estimated fewer sources would continue to follow the Part 75 monitoring requirements due to amendments to the NO_X SIP Call. The ICR is based on updated information regarding the actual numbers of sources.

Reid P. Harvey,

Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2021–07032 Filed 4–5–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FRS 19500]

Intent To Establish the 911 Strike Force Federal Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Federal Communications Commission (Commission) announces its intent to establish a Federal Advisory Committee (FAC), known as the ''Ending 9–1–1 Fee Diversion Now Strike Force'' (911 Strike Force).

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Evanoff, Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418–0848, or email: *John.Evanoff@fcc.gov;* or Jill Coogan, Deputy Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418–1499, or email: *Jill.Coogan@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Acting Chairwoman of the Federal Communications Commission, as required by section 902 of the Consolidated Appropriations Act, 2021, Public Law 116–260 (Don't Break Up the T-Band Act of 2020), is taking appropriate steps to establish the 911 Strike Force, a FAC, which Congress has deemed necessary and in the public interest. After consultation with the General Services Administration, the Commission intends to establish the charter on or before June 25, 2021, and the 911 Strike Force will have authorization to operate until approximately 270 days from the enactment of section 902 (September 23, 2021), or until such time as it has completed its statutory duties, but in no case more than two (2) years from its establishment.

As required by section 902(d)(3), the 911 Strike Force shall study how the

Federal Government can most expeditiously end diversion of 911 fees and charges by states and other taxing jurisdictions (911 fee diversion). In carrying out this study, the 911 Strike Force shall: ''(i) determine the effectiveness of any Federal laws, including regulations, policies, and practices, or budgetary or jurisdictional constraints regarding how the Federal Government can most expeditiously end diversion by a State or taxing jurisdiction of 9–1–1 fees or charges;

(ii) consider whether criminal penalties would further prevent diversion by a State or taxing jurisdiction of 9–1–1 fees or charges; and (iii) determine the impacts of diversion by a State or taxing jurisdiction of 9–1–1 fees or charges.'' Not later than approximately September 23, 2021, the 911 Strike Force shall publish on the website of the Commission and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of the study required by section 902, including ''(i) any recommendations regarding how to most expeditiously end the diversion by a State or taxing jurisdiction of 9–1–1 fees or charges, including actions that can be taken by Federal departments and agencies and appropriate changes to law or regulations; and (ii) a description of what progress, if any, relevant Federal departments and agencies have made in implementing the recommendations under clause (i).'' Pursuant to section 902(d)(3)(C), ''[t]he Strike Force shall be composed of such representatives of Federal departments and agencies as the Commission considers appropriate, in addition to— (i) State attorneys general; (ii) States or taxing jurisdictions found not to be engaging in diversion of 9–1–1 fees or charges; (iii) States or taxing jurisdictions trying to stop the diversion of 9–1–1 fees or charges; (iv) State 9–1–1 administrators; (v) public safety organizations; (vi) groups representing the public and consumers; and (vii) groups representing public safety answering point professionals.''

Advisory Committee

The 911 Strike Force will be organized under, and will operate in accordance with, the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). The 911 Strike Force will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the 911 Strike Force will be open to the public unless otherwise noticed. A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. All activities of the 911 Strike Force will be conducted in an open, transparent, and accessible manner. The 911 Strike Force shall terminate approximately 270 days from the enactment of section 902 (September 23, 2021), but in no case more than two (2) years from the filing date of its charter. The first meeting date and agenda topics will be described in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date. In addition, as needed, working groups or subcommittees will be established to facilitate the 911 Strike Force's work between meetings of the full 911 Strike Force. Meetings of the 911 Strike Force will be fully accessible to individuals with disabilities.

Accessible Formats: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), 1–888–835–5322 (TTY).

Federal Communications Commission.

Lisa Fowlkes,

Chief, Public Safety and Homeland Security Bureau.

[FR Doc. 2021–07089 Filed 4–1–21; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 19555]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the establishment of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Iowa Department of Human Services (Department). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Emergency Broadband Benefit Program, which is administered by USAC under the direction of the FCC, or other federal programs that use qualification for the FCC's Lifeline Program as an eligibility criterion. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 6, 2021. This computer matching program will commence on May 6, 2021, and will conclude 18 months after becoming effective.

ADDRESSES: Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Drake at 202–417–1707 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive Supplemental Nutrition Assistance Program (SNAP) benefits administered by the Iowa Department. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Participating Non-Federal Agencies

Iowa Department of Human Services (Department).

Authority for Conducting the Matching Program

Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54.

Purpose(s)

In the 2016 Lifeline Modernization Order, the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive SNAP benefits administered by the Iowa Department. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for EBBP benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for EBBP benefits; are minors whose status qualifies a parent or guardian for EBBP benefits; or are individuals who have received EBBP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to last name, date of birth and the last four digits of the applicant's Social Security Number. The National Verifier will transfer these data elements to the Iowa Department, which will respond either ''yes'' or ''no'' that the individual is enrolled in an EBBP-qualifying assistance program: State of Iowa's SNAP.

System(s) of Records

The USAC records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–07045 Filed 4–2–21; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 19554]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the establishment of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Colorado Governor's Office of Information Technology (OIT). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Emergency Broadband Benefit Program, which is administered by USAC under the direction of the FCC, or other federal programs that use qualification for the FCC's Lifeline Program as an eligibility criterion. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 6, 2021. This computer matching program will commence on May 6, 2021, and will conclude 18 months after becoming effective.

ADDRESSES: Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Drake at 202–417–1707 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive Supplemental Nutrition Assistance Program (SNAP) and/or Medicaid benefits administered by Colorado OIT. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Participating Non-Federal Agencies

Colorado Governor's Office of Information Technology (OIT).

Authority for Conducting the Matching Program

Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54.

Purpose(s)

In the 2016 Lifeline Modernization Order, the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006,

para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive SNAP and/or Medicaid benefits administered by Colorado OIT. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for EBBP benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for EBBP benefits; are minors whose status qualifies a parent or guardian for EBBP benefits; or are individuals who have received EBBP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to first name, last name, date of birth and the last four digits of the applicant's Social Security Number. The National Verifier will transfer these data elements to Colorado OIT, which will respond either ''yes'' or ''no'' that the individual is enrolled in an EBBP-qualifying assistance program: State of Colorado's SNAP and/or Medicaid.

System(s) of Records

The USAC records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–07044 Filed 4–2–21; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 19621]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the modification of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Puerto Rico Department of the Family (Puerto Rico). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline (existing purpose) and the new Emergency Broadband Benefit Program, both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 6, 2021. This computer matching program will commence on May 6, 2021, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Drake at 202–418–1707 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of Lifeline and EBBP applicants and subscribers by determining whether they Nutrition Assistance Program benefits administered by Puerto Rico. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Participating Non-Federal Agencies

Puerto Rico Department of the Family.

Authority for Conducting the Matching Program

The authority for the FCC's EBBP is Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54. The authority for the FCC's Lifeline program is 47 U.S.C. 254; 47 CFR 54.400 *et seq.;* Lifeline and Link Up Reform and Modernization, *et al.,* Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006–21, paras. 126–66 (2016) (*2016 Lifeline Modernization Order*).

Purpose(s)

In the 2016 Lifeline Modernization Order, the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance

of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP.

The purpose of this modified matching agreement is to verify the eligibility of applicants and subscribers to Lifeline (existing purpose), as well as to the new EBBP and to other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement would replace the existing agreement with Puerto Rico, which permits matching only for the Lifeline program by checking an applicant's/subscriber's participation in Puerto Rico's Nutrition Assistance Program. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or EBBP benefits; are currently receiving Lifeline and/or EBBP benefits; are individuals who enable another individual in their household to qualify for Lifeline and/or EBBP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or EBBP benefits; or are individuals who have received Lifeline and/or EBBP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, the last four digits of the applicant's Social Security Number, date of birth, first name, and last name. The National Verifier will transfer these data elements to the Puerto Rico Department of the Family, which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: Puerto Rico's Nutrition Assistance Program.

System(s) of Records

The records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021).

The records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–07047 Filed 4–2–21; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 19609]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the establishment of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Florida Department of Children and Families, Office of Economic Self-Sufficiency (Florida). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Emergency Broadband Benefit Program, which is administered by USAC under the direction of the FCC, or other federal programs that use qualification for the FCC's Lifeline Program as an eligibility criterion. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 6, 2021. This computer matching program will commence on May 6, 2021, and will conclude 18 months after becoming effective.

ADDRESSES: Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Drake at 202–417–1707 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive Supplemental Nutrition Assistance Program (SNAP) and/or Medicaid benefits administered by Florida. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Participating Non-Federal Agencies

Florida Department of Children and Families, Office of Economic Self-Sufficiency.

Authority for Conducting the Matching Program

Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54.

Purpose(s)

In the 2016 Lifeline Modernization Order, the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the

Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive SNAP and/or Medicaid benefits administered by Florida. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for EBBP benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for EBBP benefits; are minors whose status qualifies a parent or guardian for EBBP benefits; or are individuals who have received EBBP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to first name, last name, date of birth and the last four digits of the applicant's Social Security Number. The National Verifier will transfer these data elements to Florida, which will respond either ''yes'' or ''no'' that the individual is enrolled in an EBBP-qualifying assistance program: State of Florida's SNAP and/or Medicaid.

System(s) of Records

The USAC records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–07046 Filed 4–2–21; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0636; FRS 19356]

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 June 7, 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 Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0636.

Title: Sections 2.906, 2.909, 2.1071, 2.1074, 2.1077 and 15.37, Equipment Authorizations—Supplier's Declaration of Conformity (SDoC).

Form No.: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 8,338 respondents; 16,675 responses.

Estimated Time per Response: 1–18 hours (average).

Frequency of Response: One-time reporting requirement, recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 157(a), 301, 303(f), 303(g), 303(r), 307(e), 332, 622 and 0.31(i), and 0.31(j).

Total Annual Burden: 158,422 hours.

Total Annual Cost: $33,352,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No assurances of confidentiality are provided to respondents.

Needs and Uses: The Commission will submit this revised information collection to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from them.

In 2017, the Supplier's Declaration of Conformity (SDOC) procedure were revised in a Report and Order, FCC 17–93, *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules regarding Authorization of Radiofrequency Equipment.* Revisions to the information collection included amendments to rule sections 2.906, 2.909, 2.1071, added 2.1074, removed 2.1075 and 15.37 as reported herein.

§ 2.906 Supplier's Declaration of Conformity

(a) Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in § 2.909, makes measurements or completes other procedures found acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards. Submittal to the Commission of a sample unit or representative data demonstrating compliance is not required unless specifically requested pursuant to § 2.945.

(b) Supplier's Declaration of Conformity is applicable to all items subsequently marketed by the manufacturer, importer, or the responsible party that are identical, as defined in § 2.908, to the sample tested and found acceptable by the manufacturer.

(c) The responsible party may, if it desires, apply for Certification of a device subject to the Supplier's Declaration of Conformity. In such cases, all rules governing certification will apply to that device.

§ 2.909 Responsible Party

(a) In the case of equipment that requires the issuance of a grant of certification, the party to whom that grant of certification is issued is responsible for the compliance of the equipment with the applicable standards. If the radio frequency equipment is modified by any party other than the grantee and that party is not working under the authorization of the grantee pursuant to § 2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(b) For equipment subject to Supplier's Declaration of Conformity the party responsible for the compliance of the equipment with the applicable standards, who must be located in the United States (see § 2.1077), is set forth as follows:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under Supplier's Declaration of Conformity, the assembler.

(2) If the equipment by itself, or, a system is assembled from individual parts and the resulting system is subject to Supplier's Declaration of Conformity and that equipment or system is imported, the importer.

(3) Retailers or original equipment manufacturers may enter into an agreement with the responsible party designated in paragraph (b)(1) or (b)(2) of this section to assume the responsibilities to ensure compliance of equipment and become the new responsible party.

(4) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(c) If the end product or equipment is subject to both certification and Supplier's Declaration of Conformity (*i.e.,* composite system), all the requirements of paragraphs (a) and (b) apply.

(d) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labeled, following the specifications in § 2.925(d), with the following: ''This product has been modified by [insert name, address and telephone number or internet contact information of the party performing the modifications].''

(e) In the case of transfer of control of equipment, as in the case of sale or merger of the responsible party, the new entity shall bear the responsibility of continued compliance of the equipment.

§ 2.1071 Cross Reference

The general provisions of this subpart shall apply to equipment subject to Supplier's Declaration of Conformity.

§ 2.1074 Identification

(a) Devices subject only to Supplier's Declaration of Conformity shall be uniquely identified by the party responsible for marketing or importing the equipment within the United States. However, the identification shall not be of a format which could be confused with the FCC Identifier required on certified equipment. The responsible party shall maintain adequate identification records to facilitate positive identification for each device.

(b) Devices subject to authorization under Supplier's Declaration of Conformity may be labeled with the following logo on a voluntary basis as a visual indication that the product complies with the applicable FCC requirements. The use of the logo on the device does not alleviate the requirement to provide the compliance information required by § 2.1077 of this subpart.

§ 2.1077 Compliance Information

(a) If a product must be tested and authorized under Supplier's Declaration of Conformity, a compliance information statement shall be supplied with the product at the time of marketing or importation, containing the following information:

(1) Identification of the product, *e.g.,* name and model number;

(2) A compliance statement as applicable, *e.g.,* for devices subject to part 15 of this chapter as specified in § 15.19(a)(3), that the product complies with the rules; and

(3) The identification, by name, address and telephone number or internet contact information, of the responsible party, as defined in § 2.909. The responsible party for Supplier's Declaration of Conformity must be located within the United States.

(b) If a product is assembled from modular components (*e.g.,* enclosures, power supplies and CPU boards) that, by themselves, are authorized under a Supplier's Declaration of Conformity and/or a grant of certification, and the assembled product is also subject to authorization under Supplier's Declaration of Conformity but, in accordance with the applicable regulations, does not require additional testing, the product shall be supplied, at the time of marketing or importation, with a compliance information statement containing the following information:

(1) Identification of the assembled product, *e.g.,* name and model number.

(2) Identification of the modular components used in the assembly. A modular component authorized under Supplier's Declaration of Conformity shall be identified as specified in paragraph (a)(1) of this section. A modular component authorized under a grant of certification shall be identified by name and model number (if applicable) along with the FCC Identifier number.

(3) A statement that the product complies with part 15 of this chapter.

(4) The identification, by name, address and telephone number or internet contact information, of the responsible party who assembled the product from modular components, as defined in § 2.909. The responsible party for Supplier's Declaration of Conformity must be located within the United States.

(5) Copies of the compliance information statements for each modular component used in the system that is authorized under Supplier's Declaration of Conformity.

(c) The compliance information statement shall be included in the user's manual or as a separate sheet. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form. The information may be provided electronically as permitted in § 2.935.

§ 15.37 Transition Provisions for Compliance With the Rules

* * * * *

(c) All radio frequency devices that are authorized on or after July 12, 2004 under the certification, or Supplier's Declaration of Conformity procedures (or the prior verification or declaration of conformity procedures, as applicable) shall comply with the conducted limits

specified in § 15.107 or § 15.207 as appropriate. All radio frequency devices that are manufactured or imported on or after July 11, 2005 shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate. Equipment authorized, imported or manufactured prior to these dates shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate, or with the conducted limits that were in effect immediately prior to September 9, 2002.

* * * * *

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–07042 Filed 4–5–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 19553]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the modification of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Michigan Department of Health and Human Services. The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline (existing purpose) and the new Emergency Broadband Benefit Program, both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 6, 2021. This computer matching program will commence on May 6, 2021, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Drake at 202–418–1707 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of Lifeline and EBBP applicants and subscribers by determining whether they receive Supplemental Nutrition Assistance Program (SNAP), Medicaid or Supplemental Security Income (SSI) benefits administered by Michigan. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Participating Non-Federal Agencies

Michigan Department of Health and Human Services.

Authority for Conducting the Matching Program

The authority for the FCC's EBBP is Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54. The authority for the FCC's Lifeline program is 47 U.S.C. 254; 47 CFR 54.400 *et seq.;* Lifeline and Link Up Reform and Modernization, *et al.,* Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006–21, paras. 126–66 (2016) (*2016 Lifeline Modernization Order*).

Purpose(s)

In the 2016 Lifeline Modernization Order, the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP.

The purpose of this modified matching agreement is to verify the eligibility of applicants and subscribers to Lifeline (existing purpose), as well as to the new EBBP and to other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement would replace the existing agreement with Michigan, which permits matching only for the Lifeline program by checking an applicant's/subscriber's participation in Michigan's SNAP, Medicaid or SSI program. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or EBBP benefits; are currently receiving Lifeline and/or EBBP benefits; are individuals who enable another individual in their

household to qualify for Lifeline and/or EBBP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or EBBP benefits; or are individuals who have received Lifeline and/or EBBP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to, the last four digits of the applicant's Social Security Number, date of birth, first name, and last name. The National Verifier will transfer these data elements to the Michigan Department of Health and Human Services, which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: SNAP, Medicaid or SSI

System(s) of Records

The records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021).

The records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–07043 Filed 4–2–21; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than April 21, 2021.

A. *Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Charter Bancshares, Inc., Corpus Christi, Texas;* through its wholly-owned subsidiary bank, Charter Bank, Corpus Christi, Texas, to engage in extending credit and servicing loans pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 1, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–07084 Filed 4–5–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than May 6, 2021.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Royal Bancshares, Inc., St. Louis, Missouri;* to acquire Saints Avenue Bancshares, Inc., and thereby indirectly acquire Saints Avenue Bank, both of New London, Missouri.

Board of Governors of the Federal Reserve System, April 1, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–07040 Filed 4–5–21; 8:45 am]

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FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of

the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue, NW, Washington DC 20551–0001, not later than April 21, 2021.

A. *Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Blake Schultz, Norwalk, Iowa, Sarah Schultz Freilinger, Monona, Iowa, and Stephanie Schultz Steele, Luana, Iowa;* together with David Schultz, Luana, Iowa, previously approved, to form the Schultz Family Control Group, a group acting in concert, to retain voting shares of Luana Bancorporation, and thereby indirectly retain voting shares of Luana Savings Bank, both of Luana, Iowa.

Board of Governors of the Federal Reserve System, March 31, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–07011 Filed 4–5–21; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Intent To Award a Single-Source Supplement for the National Association of Area Agencies on Aging

AGENCY: Community Living Administration, Department of Health and Human Services.

ACTION: Announcing the intent to award a single-source supplement for the National Association of Area Agencies on Aging for the Eldercare Locator cooperative agreement.

SUMMARY: The Administration for Community Living (ACL) announces the intent to award a single-source supplement to the current cooperative agreement held by the National Area Agencies on Aging for the Eldercare Locator. Older adults are at greater risk of requiring hospitalization or dying if diagnosed with COVID–19, therefore ensuring that this population is vaccinated in an imperative. In addition, we recognize that the COVID–19 pandemic has birthed many challenges for people with disabilities and linking this population to vaccination resources is also critically important. The purpose of this project is to increase the capacity of the current Eldercare Locator call center to assist additional older adults in obtaining information and linkages to state and local organizations for the purpose of obtaining COVID–19 vaccines. In addition, utilizing the Eldercare Locator platform to develop a call center to assist people with disabilities with state and local resources to obtain links to vaccines and community resources.

Program Name: The Eldercare Locator.

Recipient: The National Association of Area Agencies on Aging.

Period of Performance: The supplement award will be issued for the third year of the five-year project period of June 1, 2018, through May 31, 2023.

Total Award Amount: $5,140,000 FY 2021.

Award Type: Cooperative Agreement Supplement.

Statutory Authority: This program is authorized under Section 202 of the Older Americans Act.

Basis for Award: The National Association of Area Agencies on Aging is currently funded to carry out the objectives of this program, entitled The Eldercare Locator. Older adults and their caregivers face a complicated array of decisions regarding home and community-based services. For almost 30 years, the Eldercare Locator has helped older adults and their families navigate this complex environment by connecting those needing assistance with State and local agencies on aging that serve older adults and their caregivers. The Eldercare Locator serves approximately 450,000 people a year through the call center. To ensure that the needs of those who contact the Eldercare Locator are carefully matched with the appropriate resources, information specialists are trained to listen closely to callers, identify relevant local, state and/or national resources and, when needed, provide a transfer to a particular resource.

As a trusted national resource, the supplement to the Eldercare Locator will be used to expand the capacity of the service to link a larger number of older adults and their caregivers seeking COVID–19 vaccines with local organizations that can assist in making the appropriate connections and appointments. With the supplemental funding, ACL will fund the expansion of the Eldercare Locator Call Center to support an increase of 500,000 calls from older adults and their caregivers. In addition, the Call Center will utilize and maintain a list of trusted resources, such as the CDC Vaccine Finder, to assist callers in making appropriate local COVID–19 vaccine connections.

Some people with disabilities might be at a higher risk of COVID–19 infection or severe illness because of their underlying medical conditions. Having to sift through countless websites and make multiple phone calls to gain education and access to vaccine resources is a significant issue. Having a one-stop call center quickly set-up to provide accurate and up-to-date state and local specific information and referrals regarding COVID–19 vaccines and information regarding local community resources for people with disabilities it critically needed. Using the established Eldercare Locator infrastructure, this supplement will be used for the rapid development of a call center to assist people with disabilities to make appropriate state and local linkages to COVID–19 vaccines and other resources. The grantee, working with appropriate national disability organizations, will establish a call center with a dedicated line and trained information specialists to serve approximately 500,000 people with disabilities.

For More Information Contact: For further information or comments regarding this program supplement, contact Sherri Clark, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Aging (202)-795–7327; email *Sherri.Clark@acl.hhs.gov*.

Dated: March 31, 2021.

Alison Barkoff,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2021–06999 Filed 4–5–21; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1030]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food Allergen Labeling and Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by May 6, 2021.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0792. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Food Allergen Labeling and Reporting

OMB Control Number 0910–0792—Extension

This information collection supports the reporting associated with the submission of petitions and notifications seeking exemptions from the labeling requirements for ingredients derived from major food allergens, and the Agency's associated guidance document.

The Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) (Title II, Pub. L. 108–282) amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by defining the term ''major food allergen'' and stating that foods regulated under the FD&C Act are misbranded unless they declare the presence of each major food allergen on the product label using the name of the food source from which the major food allergen is derived. Section 403(w)(1) of the FD&C Act (21 U.S.C. 343(w)(1)) sets forth the requirements for declaring the presence of each major food allergen on the product label. Section 201(qq) of the FD&C Act (21 U.S.C. 321(qq)) defines a major food allergen as ''[m]ilk, egg, fish (*e.g.,* bass, flounder, or cod), Crustacean shellfish (*e.g.,* crab, lobster, or shrimp), tree nuts (*e.g.,* almonds, pecans, or walnuts), wheat, peanuts, and soybeans'' and also as a food ingredient that contains protein derived from such foods. The definition excludes any highly refined oil derived from a major food allergen and any ingredient derived from such highly refined oil.

In some cases, the production of an ingredient derived from a major food allergen may alter or eliminate the allergenic proteins in that derived ingredient to such an extent that it does not contain allergenic protein. In addition, a major food allergen may be used as an ingredient or as a component of an ingredient such that the level of allergenic protein in finished food products does not cause an allergic response that poses a risk to human health. Therefore, FALCPA provides two mechanisms through which such ingredients may become exempt from the labeling requirement of section 403(w)(1) of the FD&C Act. An ingredient may obtain an exemption through submission and approval of a petition containing scientific evidence that demonstrates that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(6) of the FD&C Act). Alternately, an ingredient may become exempt through submission of a notification containing scientific evidence showing that the ingredient ''does not contain allergenic protein'' or that there has been a previous determination through a premarket approval process under section 409 of the FD&C Act (21 U.S.C. 348) that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(7) of the FD&C Act).

Description of Respondents: The respondents to this collection of information are manufacturers and packers of packaged foods sold in the United States that declare the presence of a major food allergen on the product label. In terms of reporting, the respondents are manufacturers and packers of packaged foods sold in the United States that seek an exemption from the labeling requirements of section 403(w)(1) of the FD&C Act.

In the **Federal Register** of October 28, 2020 (85 FR 68333), we published a 60-day notice requesting public comment on the proposed collection of information. Although some comments were received, they pertained to substantive and/or technical aspects of statutory requirements found in section 403(w) of the FD&C Act, or recommendations found in related Agency guidance. None of the comments discussed the information collection topics found in 5 CFR 1320.5(a)(1)(B) as requested in the notice, nor did any of the comments suggest FDA revise its estimate of the burden for the information collection.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

FD&C Section; Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
403(w)(1); review labels for compliance with food allergen labeling requirements	77,500	1	77,500	1	77,500
403(w)(1); redesign labels to comply with food allergen labeling requirements	1	1	1	16	16
Total					77,516

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

A. Third-Party Disclosure

The labeling requirements of section 403(w)(1) of the FD&C Act apply to all packaged foods sold in the United States that are regulated under the FD&C Act, including both domestically manufactured and imported foods. As noted, section 403(w)(1) of the FD&C Act requires that the label of a food product declare the presence of each major food allergen. We estimate the information collection burden of the third-party disclosure associated with food allergen labeling under section 403(w)(1) of the FD&C Act as the time needed for a manufacturer to review the labels of new or reformulated products for compliance with the requirements of section 403(w)(1) of the FD&C Act and the time needed to make any needed modifications to the labels of those products. The allergen information disclosed on the label or labeling of a

food product benefits consumers who purchase that food product. Because even small exposure to a food allergen can potentially cause an adverse reaction, consumers use food labeling information to help determine their product choices.

Based on a review of the information collection since our last request for OMB approval, we are decreasing our burden estimate for the redesign of labels. FALCPA was enacted in 2004, and we issued associated Agency guidance in 2015. Firms have had substantial time to redesign their labels for compliance with section 403(w) of the FD&C Act. We do not anticipate any firms needing to redesign their label to come into compliance with section 403(w)(1) of the FD&C Act. Thus, we are decreasing the number of respondents redesigning their label from 3,875 to 1 and the number of hours from 62,000 to 16. We estimate one respondent for the purpose of maintaining this information collection provision.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

FD&C Section; Activity	Number of respondents	Number of responses perrespondent	Total annual responses	Average burden per response	Total hours
403(w)(6); petition for exemption	5	1	5	100	500
403(w)(7); notification	5	1	5	68	340
Total					840

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

B. Reporting

Under sections 403(w)(6) and (7) of the FD&C Act, respondents may request from us a determination that an ingredient is exempt from the labeling requirement of section 403(w)(1) of the FD&C Act. An ingredient may obtain an exemption through submission and approval of a petition containing scientific evidence that demonstrates that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(6) of the FD&C Act). This section also states that ''the burden shall be on the petitioner to provide scientific evidence (including the analytical method used to produce the evidence) that demonstrates that such food ingredient, as derived by the method specified in the petition, does not cause an allergic response that poses a risk to human health.'' Alternately, an ingredient may become exempt through submission of a notification containing scientific evidence showing that the ingredient ''does not contain allergenic protein'' or that there has been a previous determination through a premarket approval process under section 409 of the FD&C Act that the ingredient ''does not cause an allergic response that poses a risk to human health'' (section 403(w)(7) of the FD&C Act).

We issued a guidance document entitled ''Guidance for Industry: Food Allergen Labeling Exemption Petitions and Notifications,'' which is available on our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-food-allergen-labeling-exemption-petitions-and-notifications.* The guidance sets forth our recommendations with regard to the information that respondents should submit in such a petition or notification. The guidance states that to evaluate these petitions and notifications, we will consider scientific evidence that describes: (1) The identity or composition of the ingredient; (2) the methods used to produce the ingredient; (3) the methods used to characterize the ingredient; (4) the intended use of the ingredient in food; and (5) either (a) for a petition, data and information, including the expected level of consumer exposure to the ingredient, that demonstrate that the ingredient, when manufactured and used as described, does not cause an allergic response that poses a risk to human health; or (b) for a notification, data, and information that demonstrate that the ingredient, when manufactured as described, does not contain allergenic protein, or documentation of a previous determination under a process under section 409 of the FD&C Act that the ingredient does not cause an allergic response that poses a risk to human health. We use the information submitted in the petition or notification to determine whether the ingredient satisfies the criteria of section 403(w)(6) and (7) of the FD&C Act for granting the exemption.

Dated: March 30, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–07002 Filed 4–5–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS 4040–0018]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before June 7, 2021.

ADDRESSES: Submit your comments to *Ed.Calimag@hhs.gov* or (202) 690–7569.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 4040–0018–60D and project title for reference to *Ed.Calimag@hhs.gov,* or call (202) 690–7569, the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: SF–428 Tangible Personal Property Report.

Type of Collection: Reinstatement of an expired information collection.

OMB No.: 4040–0018.

Abstract: Reporting on the status of Federally-owned property, including disposition, is necessitated in 2 CFR part 215, the ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'', and the ''Uniform Administrative Requirements for Grants and Agreements with State and Local Governments'', Additionally, Public Law 106–107, the Federal Financial Assistance Management Improvement Act requires that agencies ''simplify Federal financial assistance application and reporting requirements.'' 31 U.S.C. 6101, Section 3.

Agencies are currently using a variety of forms to account for both Federally-owned and grantee owned equipment and property. During the public consultation process mandated by Public Law 106–107, grant recipients requested a standard form to help them submit appropriate property information when required. The Public Law 106–107 Post Awards Subgroup developed a new standard form, the Tangible Personal Property Report, for submission of the required data. The form consists of the cover sheet (SF–428), three attachments to be used as required: Annual Report, SF–428–A; Final Report, SF–428–B; Disposition Request/Report, SF–428–C and a Supplemental Sheet, SF–428S to provide detailed individual item information when required.

Changes shall be made to the form and instructions of the SF–428–B and the SF–428–C.

ANNUALIZED BURDEN HOUR TABLE

Forms	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
SF–428 Tangible Personal Property Report.	Grant applicants	2,000	1	1	2,000
Total		2,000	1	1	2,000

Sherrette A. Funn,

Paperwork Reduction Act Report Clearance Officer, Office of the Secretary.

[FR Doc. 2021–07039 Filed 4–5–21; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Amy F. Petrik, Ph.D., 240–627–3721; *amy.petrik@nih.gov*. Licensing information and copies of the U.S. patent application listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows:

Newcastle Disease Virus-Like Particle Displaying Prefusion Stabilized SARS–CoV–2 Spike and Its Use

Description of Technology:

SARS–CoV–2 has resulted in a global pandemic, sparking urgent vaccine development efforts. The trimeric SARS–CoV–2 spike stabilized in its prefusion conformation by the addition of 2 proline mutations (''SARS–CoV–2 S2P'') is the antigenic basis of SARS–CoV–2 vaccines that are currently authorized for use in the United States.

Researchers at the Vaccine Research Center (VRC) of the National Institute of Allergy and Infectious Diseases (NIAID) sought to optimize the presentation of SARS–CoV–2 S2P to the immune system with the goal of eliciting a strong and durable immune response. The researchers designed fusion proteins made of SARS–CoV–2 S2P and Newcastle Disease fusion transmembrane domain and cytosolic tail which form virus like particles (VLPs) displaying the SARS–CoV–2 S2P on the particle surface.

SARS–CoV–2 S2P displaying Newcastle Disease virus-like particles (''S2P–NDVLP'') elicited a robust immune response two weeks after a single immunization. The S2P–NDVLP also elicited an improved immunogenicity despite delivering a lower number of SARS–CoV–2 S2P antigens than the soluble SARS–CoV–2 S2P to which they were compared. This improved immunogenicity is likely due to several characteristics of S2P–NDVLPs such as the mass and large size of the VLP particle that can result in a strong immune response and increase uptake of the S2P by dendritic cells Displaying multiple SARS–CoV–2 S2P on a single particle could allow multiple B-cell receptors on individual B cells to bind that single particle, thereby cross-linking the B-cell receptors and activating those B cells. Lastly, the lipid membrane of the S2P–NDVLP could allow the immunogen to more closely mimic the real virus and boost immune response.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404.

Potential Commercial Applications:

- A single dose SARS–CoV–2 vaccine

Competitive Advantages:

- S2P–NDVLP with potential to elicit higher levels of neutralizing antibodies than current vaccines with a single dose

Development Stage: Preclinical Research.

Inventors: Peter D. Kwong (NIAID); Yongping Yang (NIAID); Wei Shi (NIAID); John R. Mascola (NIAID); Olubukola Abiona (NIAID); Kizzmekia Corbett (NIAID); Barney Graham (NIAID).

Publications: Yang, Y *et al.,* (2021). Newcastle Disease Virus-Like Particles Displaying Prefusion-Stabilized SARS–

COV–2 Spikes Elicit Potent Neutralizing Responses. *Vaccines, 9(2), 73.*

Intellectual Property: HHS Reference Number E–068–2021 includes U.S. Provisional Patent Application Number 63/140,250, filed 01/21/2021.

Licensing Contact: To license this technology, please contact Amy F. Petrik, Ph.D., 240–627–3721; *amy.petrik@nih.gov.*

Dated: March 24, 2021.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2021–06997 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Alzheimer's Disease Drug Development.

Date: June 4, 2021.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Mitochondria and Aging.

Date: June 14, 2021.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Vascular Dysfunction in AD and Genetic Rick Factors.

Date: June 15, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Alexander Parsadanian, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 2C/212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *parsadaniana@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 1, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–07053 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR19–319: NIDDK Central Repositories Non-renewable Sample Access (X01).

Date: May 28, 2021.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7349, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 1, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–07052 Filed 4–5–21; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurobiology of Pain and Itch.

Date: April 14, 2021.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 31, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06995 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; PAR–20–072, NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: May 5, 2021.

Time: 10:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G53, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Konrad Krzewski, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G53, Rockville, MD 20852, 240–747–7526, *konrad.krzewski@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 31, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06996 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Circadian Dysfunction and Cardiovascular Disease Risk.

Date: May 12, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 207–P, Bethesda, MD 20892–7924, (301) 827–7942, *lismerin@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Small Grant Program Grants for NHLBI K Recipients (R03).

Date: May 19, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Carol (Chang-Sook) Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–B, Bethesda, MD 20892–7924, (301) 827–7940, *carolko@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Institutional Research Training.

Date: May 21, 2021.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 205–H, Bethesda, MD 20892, (301) 827–7969, *Pintuccig@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Atherosclerosis and Immune Cells.

Date: May 26, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Michael P. Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–Z, Bethesda, MD 20892, (301) 827–7975, *reillymp@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 1, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–07049 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine Notice of Meetings; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Regents, May 11–12, 2021, 10:00 a.m. to 4:00 p.m., held virtually, which was published in the **Federal Register** on March 2, 2021, 86 FR 39, Page 12197.

This notice is being amended to change the meeting to a one-day meeting on May 11, 2021. The URL link to this meeting is: *https://videocast.nih.gov*. Any member of the public may submit written comments no later than 15 days after the meeting.

Dated: March 31, 2021.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06992 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institutes of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: April 19–20, 2021.

Open: April 19, 2021, 10:00 a.m. to 1:05 p.m.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: April 19, 2021, 1:05 p.m. to 2:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Open: April 19, 2021, 2:00 p.m. to 5:30 p.m.

Agenda: Personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: April 19, 2021, 5:30 p.m. to 6:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Open: April 20, 2021, 10:00 a.m. to 12:55 p.m.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: April 20, 2021, 12:55 p.m. to 1:40 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Open: April 20, 2021, 1:40 p.m. to 4:10 p.m.

Agenda: Personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: April 20, 2021, 4:10 p.m. to 5:40 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael W. Krause, Ph.D., Scientific Director, NIDDK, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 31, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–07051 Filed 4–5–21; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices.

Date: April 29, 2021.

Time: 1:00 p.m. to 2:00 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: Jan Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, Bethesda, MD 20892, (301) 402–9607, *Jan.Li@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 31, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06990 Filed 4–5–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0124]

Certificate of Alternative Compliance for the USNS HARVEY MILK and USNS EARL WARREN

AGENCY: Coast Guard, DHS.

ACTION: Notification of issuance of a certificate of alternative compliance.

SUMMARY: The Coast Guard announces that the Eleventh Coast Guard District's Prevention Division has issued a certificate of alternative compliance from the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), for the USNS HARVEY MILK (O.N. CG1473700) and USNS EARL WARREN (O.N. CG1473701). We are issuing this notice because its publication is required by statute. Due to the design and operation of the ship's whistles, USNS HARVEY MILK and USNS EARL WARREN cannot fully comply with the light, shape, or sound signal provisions of the 72 COLREGS without interfering with the design and construction of each vessel. This notification of issuance of a certificate of alternative compliance promotes the Coast Guard's marine safety mission.

DATES: The Certificate of Alternative Compliance was issued on March 22, 2021.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email LT Amanda Garcia, District Eleven, Prevention Division, U.S. Coast Guard, telephone 510–437–3426, email *Amanda.M.Garcia@uscg.mil.*

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, or sound signal provisions of the 72 COLREGS. Under statutory law, however, specified 72 COLREGS provisions are not applicable to a vessel of special construction or purpose if the Coast Guard determines that the vessel cannot comply fully with those requirements without interfering with the special function of the vessel.[1]

The owner, builder, operator, or agent of a special construction or purpose vessel may apply to the Coast Guard District Office in which the vessel is being built or operated for a determination that compliance with alternative requirements is justified,[2] and the Chief of the Prevention Division would then issue the applicant a certificate of alternative compliance (COAC) if he or she determines that the vessel cannot comply fully with 72 COLREGS light, shape, and sound signal provisions without interference with the vessel's special function.[3] If the Coast Guard issues a COAC, it must publish notice of this action in the **Federal Register**.[4]

The Eleventh Coast Guard District's Prevention Division, U. S. Coast Guard, certifies that the USNS HARVEY MILK (O.N. CG1473700) and USNS EARL WARREN (O.N. CG1473701) are both vessels of special construction or purpose, and that, with respect to the operation of the ship's whistles, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation, construction, or design of each vessel. The Eleventh Coast Guard District's Prevention Division, U.S. Coast Guard further finds and certifies that the operation of the ship's whistles, are in the closest possible compliance with the applicable provisions of the 72 COLREGS.[5]

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.18.

Dated: March 30, 2021.

G.A. Callaghan,

Captain, U.S. Coast Guard, Chief, Prevention Division, Eleventh Coast Guard District.

[FR Doc. 2021–07038 Filed 4–5–21; 8:45 am]

BILLING CODE 9110–04–P

[1] 33 U.S.C. 1605.

[2] 33 CFR 81.5.

[3] 33 CFR 81.9.

[4] 33 U.S.C. 1605(c) and 33 CFR 81.18.

[5] 33 U.S.C. 1605(a); 33 CFR 81.9.

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–31706);PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before March 27, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by April 21, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before March 27, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

ILLINOIS

De Kalb County

Shabbona Hotel, 104 West Comanche St., Shabbona, SG100006489

NEW YORK

Columbia County

New Lebanon District No. 8 School, 565 US 20 (Columbia Tpk.), New Lebanon, SG100006480

Erie County

Buffalo Club, The, 388 Delaware Ave., Buffalo, SG100006481

Kings County

Building at 240 Broadway, 240 Broadway, Brooklyn, SG100006482

Loew's Kameo Theater, 530 Eastern Pkwy., Brooklyn, SG100006483

Williamsburg Houses, 134 Bushwick Ave., 214 Graham Ave., 178 Leonard St., 108, 160, 176, 196 Maujer St., 93, 195, 219 Scholes St., 101, 106, 125, 180 Stagg Walk, 123, 143, 164, 188, 200, 222 Ten Eyck Walk, Brooklyn, SG100006484

Monroe County

Walker-Warren House, 5628 West Henrietta Rd., West Henrietta, SG100006485

New York County

Hansberry, Lorraine, House, 337 Bleeker St., New York, SG100006490

Niagara County

Harrison Radiator Corporation Factory, 190 Walnut St. and 160 Washburn St., Lockport, SG100006486

Westchester County

Larchmont Avenue Church, 60 Forest Park Ave., Larchmont, SG100006487

Resnick, Solomon, House, 1256 Hardscrabble Rd., Chappaqua, SG100006488

SOUTH CAROLINA

Edgefield County

U.S. Highway 25, Portions of Old US 25, Augusta Arbor Way, Calhoun Mountain, Frontage, Moki, Old Buncombe, Perimeter, and Old Augusta Rds., Edgefield vicinity, SG100006492

Greenville County

U.S. Highway 25, Portions of Old US 25, Augusta Arbor Way, Calhoun Mountain, Frontage, Moki, Old Buncombe, Perimeter, and Old Augusta Rds., Greenville vicinity, SG100006492

U.S. Highway 25, Portions of Old US 25, Augusta Arbor Way, Calhoun Mountain, Frontage, Moki, Old Buncombe, Perimeter, and Old Augusta Rds., Travelers Rest vicinity, SG100006492

TEXAS

Bowie County

Texarkana National Bank (Motor Bank and Parking Garage), 217 Pine St., Texarkana, SG100006491

Harris County

J.A. Folger and Company Plant, 235 North Norwood St., Houston, SG100006493

WISCONSIN

Green County

1st and 2nd Street Historic District, Generally bounded by 1st and 2nd Sts. between 6th and 12th Aves., New Glarus, SG100006495

2nd Street Commercial Historic District, 2nd St. between 4th and 5th Aves., 130 and 200 5th Ave., New Glarus, SG100006496

WYOMING

Platte County

Powars II Paleoindian Hematite Quarry, (Paleoindian Archaeology in Wyoming MPS), Address Restricted, Sunrise vicinity, MP100006494

Authority: Section 60.13 of 36 CFR part 60.

Dated: March 30, 2021.

Sherry A. Frear,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2021–07035 Filed 4–5–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–31671;PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before March 20, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by April 21, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before March 20, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CONNECTICUT

New Haven County

Armstrong Rubber Company Building, 500 Sargent Dr., New Haven, SG100006451

DISTRICT OF COLUMBIA

District of Columbia

Bazelon-McGovern House, 3020 University Terrace NW, Washington, SG100006457

LOUISIANA

Iberville Parish

Lozano, Louis S., House, 23730 Eden St., Plaquemine, SG100006452

MICHIGAN

Wayne County

Grosse Pointe Central Library, 10 Kercheval Ave., Grosse Pointe Farms, SG100006438

MINNESOTA

Winona County

First Congregational Church, 161 West Broadway St., Winona, SG100006440

NEW HAMPSHIRE

Coos County

Potter Site, Address Restricted, Randolph vicinity, SG100006475

NEW YORK

Onondaga County

Mottville Cemetery, 4275 Jordan Rd., Skaneateles vicinity, SG100006476

NORTH CAROLINA

Cleveland County

Summers, Frank Rickert, House, 1220 North Piedmont Ave., Kings Mountain vicinity, SG100006458

Currituck County

Walker, Wilson, House and Walker-Snowden Store, 150–158 Courthouse Rd., Currituck, SG100006454

Haywood County

Pigeon Street School, 450 Pigeon St., Waynesville, SG100006459

Iredell County

Long, Henry Fletcher and Carrie Allison, House, 335 North Center St., Statesville, SG100006460

Lenoir County

Kinston Commercial Historic District (Boundary Increase) (Boundary Decrease), (Kinston MPS), Roughly bounded by East and West Caswell, West Gordon, North Herritage, East King, North McLewean, and South Queen Sts., Spruce Alley, and the railroad right-of-way Kinston, BC100006479

Pasquotank County

Elizabeth City Industrial Historic District, (Elizabeth City MPS), Roughly bounded by East Burgess, North Poindexter, and East Elizabeth Sts., and the Pasquotank R., Elizabeth City, MP100006461

Polk County

The Cotton Patch, 426 South River Rd., Tryon vicinity, SG100006462

Rowan County

Temple, Edgar S. and Madge, House, 1604 Statesville Blvd., Salisbury, SG100006463

Stanly County

Hall, Julius Clegg, House and Grounds, 343 North Second St., Abemarle, SG100006453

Surry County

J. J. Jones High School, 213–215 Jones School Rd., Mount Airy, SG100006464

Mount Airy Historic District (Boundary Increase II), Includes portions of Bank, Broad, West Church, Durham, West Elm, Hadley, East and West Haymore, North Main, Maple, Merritt, Price, Rockford, Spring, and Willow Sts., Maiden Ln., Patterson and Rawley Aves., Mount Airy, BC100006465

Taylor Park Historic District, Includes all or portions of Charles, Grace, Howard, North Main, and Marion Sts., Crescent Dr., North and South Park, and Wrenn Aves., Mount Airy, SG100006466

A request to move has been received for the following resource:

MICHIGAN

Oakland County

Holly Union Depot, 223 South Broad St., Holly, MV00000645

Additional documentation has been received for the following resources:

ARIZONA

Coconino County

Flagstaff Townsite Historic Residential District (Additional Documentation), (Flagstaff MRA), Roughly bounded by Cherry, Humphreys and Sitgreaves Sts.,

Railroad Ave., and Toltec and Aztec Sts., Flagstaff, AD86000897

Maricopa County

Medlock Place Historic District (Additional Documentation), Roughly bounded by Missouri Ave., Camelback Rd., 7th Ave., and Central Ave., Phoenix, AD06000434
Garfield Historic District (Additional Documentation), (Residential Subdivisions and Architecture in Central Phoenix, 1870–1963, MPS), Roughly bounded by 7th, 16th, Roosevelt, and Van Buren Sts., Phoenix, AD10000325
Story, F.Q., Neighborhood Historic District (Additional Documentation), McDowell Rd., 7th Ave., Roosevelt St., and 16th Ave., Phoenix, AD88000212
Willo Historic District (Additional Documentation), Roughly bounded by Central Ave., McDowell Rd., 7th Ave., and Thomas Rd., Phoenix, AD90002099

Pima County

Armory Park Historic Residential District (Additional Documentation), East 12th St. to 19th St., Stone Ave. to 2nd Ave., Tucson, AD76000378
Barrio Libre (Additional Documentation), Roughly bounded by 14th, 19th, Stone, and Osborne Sts., Tucson, AD78000565
Colonia Solana Residential Historic District (Additional Documentation), Roughly bounded by Broadway Blvd., S. Randolph Way, Camino Campestre, and S. Country Club, Tucson, AD88002963

Yavapai County

East Prescott Historic District (Additional Documentation), (Prescott Territorial Buildings MRA), Roughly bounded by Atchison, Topeka, and Santa Fe Railroad tracks, North Mt. Vernon, Carleton, and North Alarcon Sts., Prescott, AD89000165

NORTH CAROLINA

Lenoir County

Kinston Commercial Historic District (Additional Documentation), (Kinston MPS), Roughly bounded by East and West Caswell, West Gordon, North Herritage, East King, North McLewean, and South Queen Sts; Spruce Alley, and the railroad right-of-way, Kinston, AD94000569

UTAH

Salt Lake County

Deseret Bank Building-First Security Bank Building, 79 South Main St., Salt Lake City, AD06000929
Salt Lake Engineering Works-Bogue Supply Company Building (Additional Documentation), 730 Pacific Ave., Salt Lake City, AD03000156
Walker Bank Building (Additional Documentation), 171 South Main St., Salt Lake City, AD06000929
Tribune Building (Additional Documentation), (Salt Lake City Business District MRA), 143 South Main St., Salt Lake City, AD82005108

Authority: Section 60.13 of 36 CFR part 60

Dated: March 24, 2021.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021–07031 Filed 4–5–21; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–666 and 731–TA–1558 (Preliminary)]

Walk-Behind Snow Throwers From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–666 and 731–TA–1558 (Preliminary) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of walk-behind snow throwers from China, provided for in subheading 8430.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce (''Commerce'') extends the time for initiation, the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by May 14, 2021. The Commission's views must be transmitted to Commerce within five business days thereafter, or by May 21, 2021.

DATES: March 30, 2021.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson (202–205–3125) and Jordan Harriman (202–205–2610), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), in response to a petition filed on March 30, 2021, by MTD Products Inc., Valley City, Ohio.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission is conducting the staff conference through

video conferencing on April 20, 2021. Requests to appear at the conference should be emailed to *preliminaryconferences@usitc.gov* (DO NOT FILE ON EDIS) on or before April 16, 2021. Please provide an email address for each conference participant in the email. Information on conference procedures will be provided separately and guidance on joining the video conference will be available on the Commission's Daily Calendar. A nonparty who has testimony that may aid the Commission's deliberations may request permission to participate by submitting a short statement.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 23, 2021, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties shall file written testimony and supplementary material in connection with their presentation at the conference no later than noon on April 19, 2021. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these investigations must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that any information that it submits to the Commission during these investigations may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of these or related investigations or reviews, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 31, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–07012 Filed 4–5–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Amendment to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 30, 2021, the Department of Justice lodged a proposed amendment to a Consent Decree with the United States District Court for the Eastern District of Virginia in *United States* v. *Reynolds Metals Company, et al.,* Civil Case No. 3:97–cv–00226 (E.D. Va.).

The original Consent Decree was entered on November 5, 1997, and resolved civil claims under the Comprehensive Environmental Response, Compensation, and Liability Act at the HH, Inc. Superfund site (''Site''). The Consent Decree, as amended, required reimbursement of costs incurred by the EPA and the United States Department of Justice for response actions at the Site by the Original Settling Parties, as well as performance of studies and response work at the site consistent with the National Contingency Plan, 40 CFR part 300 (as amended) (''NCP'').

The parties to the Consent Decree have agreed to certain modifications set forth in an amendment to the Decree. The amendment provides for the incorporation of EPA's Record of Decision Amendment relating to the Site signed on May 26, 2020 (''2020 ROD Amendment''), which modifies the groundwater portion of the Selected Remedy at the Site. Previously, a High Vacuum Extraction (''HVE'') system was used to extract and treat groundwater at the Site. In 2011, with EPA approval, the system was shut down due to diminishing containment recovery rates. The modified Selected Remedy replaces the HVE system with Enhanced Bioremediation (EB), a system which EPA has determined is both more cost-effective and will take a shorter amount of time to extract contaminants from the groundwater.

The publication of this notice opens a period for public comment on the proposed modifications to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Reynolds Metals Company, et al.,* DJ# 90–11–3–1408, Civil Case No. 3:97–cv–00226 (E.D. Va.). All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed amendments to the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed amendments upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $2.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–07001 Filed 4–5–21; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (21–020)]

Notice of Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to grant a partially exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant a partially exclusive patent license in the United States to practice the inventions described and claimed in U.S. Patent Application Number 17/023,336 entitled ''Passive Porous Tube Nutrient Delivery System,'' NASA Case Number KSC–14238, to Brand Labs Technologies, LLC, having its principal place of business in Pompano Beach, Florida. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: The prospective exclusive license may be granted unless NASA receives written objections, including evidence and argument no later than April 21, 2021 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than April 21, 2021 will also be treated as objections to the grant of the contemplated partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Mark Homer, Patent Counsel, Office of the General Counsel, NASA Kennedy Space Center, Mail Code CC, Kennedy Space Center, Florida 32899. Email: *ksc-patent-counsel@mail.ksc.nasa.gov*. Telephone: 321–867–2076; Facsimile: 321–867–1817.

FOR FURTHER INFORMATION CONTACT: Jonathan Leahy, Patent Attorney, Office of the General Counsel, NASA Kennedy Space Center, Mail Code CC, Kennedy Space Center, Florida 32899. Telephone: 321–867–6553; Facsimile: 321–867–1817.

SUPPLEMENTARY INFORMATION: This notice of intent to grant an exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive patent license will comply with the requirements of 35 U.S.C. 209 and 37 CFR. 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov*.

Helen Galus,

Agency Counsel for Intellectual Property.

[FR Doc. 2021–07024 Filed 4–5–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Fund Access for Credit Unions

ACTION: Notice of funding opportunity.

FUNDING OPPORTUNITY TITLE: Community Development Revolving Loan Fund (CDRLF) Grants.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER: 44.002.

SUMMARY: The National Credit Union Administration (NCUA) is issuing this Notice of Funding Opportunity (NOFO) to announce the availability of technical assistance grants (awards) for low-income designated credit unions (LICUs) through the CDRLF. The CDRLF serves as a source of financial support in the form of loans and technical assistance grants that better enable LICUs to support the communities in which they operate. All grant awards made under this NOFO are subject to funds availability and are at the NCUA's discretion.

Table of Contents

A. Program Description

The purpose of the Community Development Revolving Loan Fund (CDRLF) is to expand access of financial products and services, and increase diversity, equity, and economic inclusion to underserved communities. Through the CDRLF, the NCUA provides financial support in the form of technical assistance grants to low-income designated credit unions (LICUs) serving predominantly low-income members to modernize, build capacity and extend outreach into underserved communities.

The NCUA will consider requests for various funding initiatives. More detailed information about the purpose of each initiative, amount of funds available, funding priorities, permissible uses of funds, funding limits, deadlines and other pertinent details will be defined in the grant round guidelines. In addition, the NCUA may periodically publish information regarding the CDRLF in Letters to Credit Unions, press releases, and/or on the NCUA website.

1. Funding Initiatives

The list of potential funding initiatives available during 2021 includes the following:

i. Digital Services and Cybersecurity;

ii. Minority Depository Institution (MDI) Mentoring; and

iii. Underserved Outreach.

2. Authority and Regulations

i. *Authority:* 12 U.S.C. 1772c–1, 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786;

ii. *Regulations:* The regulation governing the CDRLF is found at 12 CFR part 705. In general, this regulation is used by the NCUA to govern the CDRLF and set forth the program requirements. Additional regulations related to the low-income designation are found at 12 CFR parts 701.34 and 741.204. For the purposes of this NOFO, an ''Applicant'' is a Participating Credit Union that submits a complete application to the NCUA under the CDRLF. The NCUA encourages Applicants to review the regulations, this NOFO, the grant round guidelines, and other program materials for a complete understanding of the program.

B. Award Information

Approximately $1.5 million in awards will be available through this NOFO. The NCUA reserves the right to: (i) Award more or less than the amounts cited above; (ii) fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO; and (iii) reallocate funds from the amount that is anticipated to be available under this NOFO to other programs, particularly if the NCUA determines that the number of awards made under this NOFO is fewer than projected. General information about the purpose of each funding initiative and the maximum award amount is provided below.

1. Purpose of Funding Initiatives

i. *Digital Services and Cybersecurity:* The Digital Services and Cybersecurity initiative provides financial assistance to credit unions to modernize, innovate, and protect credit unions and members against cyberattack. The goal of the initiative is to increase the access of safe, secure digital financial products and services to low-income and underserved communities. The NCUA also encourages credit union to apply for this initiative to help the credit union meet the challenges created by the COVID–19 pandemic. Applicants can request funding for equipment needed to improve their remote work posture or implement new financial products and services which provide members access to the credit union without physical access to the branch. Applicants can select up to three of the eligible projects below:

a. Implementation of Mobile/Online Banking Features;

b. Remote Workforce Management and Solutions; and/or

c. Strengthen Cybersecurity.

ii. *MDI Mentoring:* The purpose of the MDI Mentoring initiative is to encourage strong and experienced credit unions to provide guidance to small MDI credit unions to increase their ability to thrive and serve low-income and underserved populations. This grant may be used for eligible expenses associated with facilitating a new mentorship relationship. Funding approval will be based on the applicant's ability to demonstrate a well-developed plan for the mentoring assistance it would receive from a mentor credit union. Applicants are expected to meet the objectives of this initiative by establishing a mentorship to accomplish the following objectives:

a. Credit union growth and expansion, such as growing the membership or the loan portfolio;

b. Improved management and operations, such as leadership training, developing new policy and procedure documents, or responding to exam or audit findings;

c. Increased credit union capabilities, such as introducing a new program or service or improving credit union systems; and/or

d. Other (applicants will have opportunity to justify additional projects).

iii. *Underserved Outreach:* The Underserved Outreach initiative is designed to help credit unions implement innovative outreach strategies to increase access to financial products and services in underserved communities. The goal of this initiative is for credit unions to improve the financial health of individuals in underserved communities by closing the wealth gap, increasing equity, and expanding economic inclusion. Applicants are expected to address the challenges faced by underserved communities by offering financial products, services and programs through the following projects:

a. New or expanded outreach efforts, such as developing partnerships with other organizations to assist the needs of low wealth persons and households;

b. New or expanded financial education programs, such as providing small business or workforce training for minorities interested in starting and growing a business; or

c. New or expanded financial products or services, such as developing and implementing a new product or program tailored to underserved and minority groups, like a first-time homeowner program.

2. Maximum Award Amount

The maximum amount for a CDRLF award is determined by the type of funding initiative. There is no minimum amount for CDRLF awards. The maximum award amount for each funding initiative is provided below.

i. Digital Services and Cybersecurity—$7,000

ii. MDI Mentoring—$25,000

iii. Underserved Outreach—$50,000

C. Eligibility Information

1. Eligible Applicants

This NOFO is open to credit unions that meet the eligibility requirements defined in 12 CFR part 705. A credit union must have a low-income designation obtained in accordance with 12 CFR 701.34 or 741.204 in order to participate in the CDRLF.

i. *Non-Federally Insured Applicants:* Each Applicant that is a non-federally insured, state-chartered credit union must submit additional application materials. These additional materials are more fully described in 12 CFR 705.7(b)(3) and in the application.

a. Non-federally insured, state-chartered credit unions must agree to be examined by the NCUA. The specific terms and covenants pertaining to this condition will be provided in the award agreement of the Participating Credit Union.

2. Data Universal Numbering System (DUNS) Number

The Data Universal Numbering System (DUNS) number is a unique nine-character number used to identify your organization. The federal government uses the DUNS number to track how federal money is allocated. Registering for a DUNS number is FREE. Applicants can obtain a DUNS number by visiting the Dun & Bradstreet (D&B) website or calling 1–866–705–5711. The NCUA will not consider an application that does not include a valid DUNS number issued by Dun and Bradstreet (D&B). Such an application will be deemed incomplete and will be declined.

3. Employer Identification Number

Each application must include a valid and current Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (IRS). The NCUA will not consider an application that does not include a valid and current EIN. Such an application will be deemed incomplete and will be declined. Information on how to obtain an EIN may be found on the IRS's website.

4. System for Award Management

All Applicants are required by federal law to have an active registration with the federal government's System for Award Management (SAM) prior to applying for funding. SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. *An active SAM account status and CAGE number is required* to apply for a CDRLF award. Credit unions that have an existing registration with SAM must recertify and maintain an active status annually. The SAM registration and recertification process is FREE. First-time SAM users can register by following the instructions in the *Quick Start Guide for New Registrations.* Existing users can recertify or renew their SAM account status by following the instructions in the *Quick Start Guide for Renewing Registrations.* The NCUA will not consider an applicant that does not have an active SAM status. Such an application will be deemed incomplete and will be declined.

5. Other Eligibility Requirements

i. *Financial Viability:* Applicants must meet the underwriting standards established by the NCUA, including those pertaining to financial viability, as set forth in the application and defined in 12 CFR 705.7(c).

ii. *Compliance With Past Agreements:* In evaluating funding requests under this NOFO, the NCUA will consider an Applicant's record of compliance with

past agreements. The NCUA, in its sole discretion, will determine whether to consider an application from an Applicant with a past record of noncompliance, including any deobligation (*i.e.,* removal of unused awards) of funds.

a. If an Applicant is in default of a previously executed agreement with the NCUA, the NCUA will not consider an application for funding under this NOFO.

b. If an Applicant is a prior Participating Credit Union under the CDRLF and has unused awards as of the date of application, the NCUA may request a narrative from the Applicant that addresses the reason for its record of noncompliance. The NCUA, in its sole discretion, will determine whether the reason is sufficient to proceed with the review of the application.

D. Application and Submission Information

1. Application

Under this NOFO, all applications must be submitted online in the NCUA's web-based application system, CyberGrants, in order to be considered. Applications must be submitted online at *https://www.cybergrants.com/ncua/applications.* The application and related documents are also located on the NCUA's website at *https://www.ncua.gov/services/Pages/resources-expansion/grants-loans.aspx.*

2. Minimum Application Content

A complete application will consist of similar components for each funding initiative. At a minimum, each initiative requires a narrative response that describes the Applicant's proposed use of the CDRLF award. The NCUA reserves the right to waive this requirement for any funding initiatives with a defined list of allowable project activities. The NCUA will identify the funding initiatives that do not require a narrative response in the grant round guidelines. Other application contents that are specific to a particular funding initiative will be defined in the grant round guidelines found on NCUA's website.

3. Submission Dates and Times

i. The NCUA will accept applications beginning May 3, 2021, at 9:00 a.m. eastern time (ET). Applications must be submitted by June 26, 2021, at 11:59 p.m. ET. Late applications will not be considered.

E. Application Review Information

1. Eligibility and Completeness Review

The NCUA will review each application to determine whether it is complete and that the Applicant meets the eligibility requirements described in the regulations, the grant round guidelines, and in this NOFO. An incomplete application or one that does not meet the eligibility requirements will be declined without further consideration.

2. Evaluation Criteria

Each funding initiative, due to its structure and impact, may have varying degrees of evaluation criteria assigned. The evaluation criteria for each funding initiative is fully described in the grant round guidelines.

3. Application Review

The purpose of the application review is to determine whether an application satisfies the criteria set forth for each particular funding initiative. The NCUA will evaluate each application in accordance with the criteria and procedures described in the grant round guidelines. The NCUA reserves the right to contact the Applicant during its review for the purpose of clarifying or confirming information contained in the application. If so contacted, the Applicant must respond within the time specified by the NCUA or the NCUA, in its sole discretion, may decline the application without further consideration.

4. Scoring and Funding Decision

The NCUA will make its funding decision based on a scoring system that establishes a ranking position for each application. The applications will be ranked according to the scoring criteria set forth for each funding initiative in the grant round guidelines.

F. Federal Award Administration

1. NCUA Award Notice

The NCUA will notify each Applicant of its funding decision by email. In addition, the NCUA will announce the successful applications through a press release that includes a list of the Awardees. Applicants that are approved for funding will also receive instructions on how to proceed with the post-award activities.

2. Administrative and National Policy Requirements

i. *Award Agreement:* The specific terms and conditions will be established in the award agreement each Participating Credit Union must sign prior to formally accepting an award. Each Participating Credit Union under this NOFO must enter into an agreement with the NCUA before the NCUA will disburse the award funds. The agreement includes the terms and conditions of funding, including but not limited to the: (i) Award amount; (ii) grant award details; (iii) roles and responsibilities; (iv) accounting treatment; (v) signature pages; and (vi) reporting requirements.

ii. *Failure to Sign Agreement:* The NCUA, in its sole discretion, may rescind an award if the Applicant fails to sign and return the agreement or any other requested documentation, within the time specified by the NCUA.

3. Reimbursement Process

Applicants that are approved for funding will be responsible for the complete and timely submission of the post-award activities. This includes, but it is not limited to, signing the award agreement and completing a reimbursement request. Successful Applicants must submit a reimbursement request in order to receive the awarded funds. The reimbursement requirements are different depending on the funding initiative. The NCUA will define the reimbursement requirements for each funding initiative in the post-award guidelines.

The reimbursement request may require, all or a combination of, the following items: (i) Certification of expenses, (ii) project related documentation, (iii) a summary of project accomplishments and outcomes, or (iv) a certification form signed by a credit union official (*e.g.,* CEO, manager, or Board Chairperson) authorized to request the reimbursement and make the certifications. The NCUA, in its sole discretion, may modify these requirements. Additional reimbursement request requirements will be described in the post-award guidelines.

G. Federal Awarding Agency

1. Methods of Contact

Further information can be found at *https://www.ncua.gov/services/Pages/resources-expansion/grants-loans.aspx.* For questions related to the CDRLF, email the NCUA's Office of Credit Union Resources and Expansion at *CUREAPPS@ncua.gov.*

2. Information Technology Support

People who have visual or mobility impairments that prevent them from using the NCUA's website should call (703) 518–6610 for guidance (this is not a toll-free number).

H. Grant Terms and Conditions

1. *All credit unions are required to certify the following terms and conditions prior to submitting an application:*

i. The Applicant is a low-income designated credit union, as defined in Section 701.34 of the NCUA's Rules and Regulations.

ii. Applicant shall comply with United States Office of Management and Budget, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

iii. Applicants are required to have an audit conducted if they hold $750,000 or more in Federal awards during a fiscal year. Applicants that hold less than $750,000 in Federal awards are exempt from this law.

a. For example, if a credit union uses a $250,000 loan from the NCUA's CDRLF and a $500,000 grant from the Community Development Financial Institutions (CDFI) Fund, totaling $750,000 in Federal awards during the same fiscal year; then the credit union must have an audit conducted.

iv. Applicant is responsible for the efficient and effective administration of the Federal Award through application of sound management practices. Applicant assumes the responsibility for administering Federal Funds in a manner consistent with underlying agreements, program objectives, and the term and conditions of the Federal Award.

v. No employee, contractor, consultant or vendor has participated substantially for this grant-funded activity, nor otherwise benefited directly or indirectly from the grant, who, to its knowledge (assuming reasonable diligence), has a ''covered relationship'' with an NCUA employee who presently holds a position that would enable him or her to influence a pending or future grant award, or a reimbursement of permitted expenses thereunder.

vi. An employee, contractor, consultant or vendor of the Applicant would have such a ''covered relationship'' if he or she were either: (1) A member of the household of an NCUA employee who presently holds a position that would enable him or her to influence a pending or future grant award, or a reimbursement thereunder; or (2) a relative of such an NCUA employee with whom he or she has a close personal relationship. 5 CFR 2635.502(b)(1)(ii).

vii. Applicant must disclose in writing to the NCUA any potential conflict of interest in accordance with applicable Federal awarding agency policy.

viii. Per 2 CFR 200.113, Applicant must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award.

ix. The Applicant conducts its activities such that no person is excluded from participation in, is denied the benefits of, or is subject to discrimination on the basis of race, color, national origin, sex, age or disability in the distribution of services and/or benefits provided under this grant program. The credit union agrees to provide evidence of its compliance as required by the NCUA. Furthermore, credit unions should ensure compliance with Title VI of the Civil Rights Act of 1964.

x. If a credit union enters into commitments for a project before the grant decision is made, credit union will be obligated to pay project expenses from its own funds should the grant not be approved; if the grant is approved the credit union may be responsible for a portion of the expenses due prior to the grant approval date.

xi. Requests to reallocate or change approved project (s) and/or request an extension to the deadline must be submitted in writing prior to the original deadline and approved by the NCUA prior to Applicant incurring expenses.

xii. The Applicant is aware that the NCUA will correspond with the credit union regarding this application by email (utilizing the email provided in this application).

xiii. Applicant hereby acknowledges that the NCUA reserves full discretion to deny reimbursement under this grant in the event the NCUA determines the Applicant is, or previously was, either in breach of any-condition or limitation in the grant guidelines, or in breach of the 'covered relationship' restriction set forth above.

xiv. Information included in Outcome Summary or Success Stories is considered by the NCUA to be Research Data and is governed by 2 CFR 200.315 and may be made publicly available.

xv. Applicant is aware that any false, fictitious, or fraudulent information or the omission of any material fact, may subject Applicant to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730, and 3801–3812).

xvi. Applicant is aware recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system in accordance with Public Law 115–232, section 889 and 2 CFR 200.216 .

By the National Credit Union Administration Board on April 1, 2021.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2021–07085 Filed 4–5–21; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities

Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: Federal Council on the Arts and the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council on the Arts and the Humanities will hold a meeting of the Arts and Artifacts International Indemnity Panel.

DATES: The meeting will be held on Thursday, May 13, 2021, from 12:00 p.m. until adjourned.

ADDRESSES: The meeting will be held by videoconference originating at the National Endowment for the Arts, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506, (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning on or after July 1, 2021. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified and the methods of transportation and security measures confidential, I have determined that that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of Title 5, United States Code. I have made this

determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 15, 2016.

Dated: March 30, 2021.

Elizabeth Voyatzis,

Committee Management Officer, Federal Council on the Arts and the Humanities & Deputy General Counsel, National Endowment for the Humanities.

[FR Doc. 2021–06983 Filed 4–5–21; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice; request for comments.

SUMMARY: The National Endowment for the Humanities (NEH) is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, NEH is requesting comments from all interested individuals and organizations on this proposed collection.

DATES: Please submit comments by May 6, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Carrigan, Chief Funding Opportunity Officer, Office of Grant Management, National Endowment for the Humanities: 400 Seventh Street SW, Washington, DC 20506, or *tcarrigan@neh.gov;* or 202–606–8377.

SUPPLEMENTARY INFORMATION: NEH first published notice of its intent to seek OMB approval for this information collection in the **Federal Register** of January 27, 2021 (86 FR 7310) and allowed 60 days for public comment. The agency received one public comment, dated January 27, 2021, which expressed general concern about the benefit of this information collection to the taxpayer. NEH acknowledged the comment but determined that it did not call for any change to the planned information collection since the opinion expressed was of a general nature and did not pertain to any specific aspects of the information collection. The purpose of this notice is to allow an additional 30 days for public comment.

Overview of This Information Collection

Type of Review: Revision of an existing information collection.

Title of Information Collection: Generic Clearance Authority for the National Endowment for the Humanities.

Abstract: The National Endowment for the Humanities is seeking to renew its generic clearance authority. The generic clearance authority includes all NEH information collections, except one-time evaluations, questionnaires, and surveys.

The proposed revision adjusts the overall burden estimate from 88,815 to 296,433 hours. This estimate reflects the anticipated change in the number of respondents from 7,815 to 6,767 and an updated estimated time per response that more accurately reflects the hours required to complete a grant application. Previously, NEH estimated fifteen hours were needed to complete a grant application. Further study has increased the estimate to sixty hours per proposal. The burden estimate for associated forms and reporting requirements has not changed.

OMB Number: 3136–0134.

Affected Public: Applicants to NEH grant programs, reviewers of NEH grant applications, and NEH award recipients.

Frequency of Collection: On occasion.

Total Respondents: 6,767.

Total Responses: 6,767.

Estimated Time per Response: Varies according to type of information collection.

Estimated Total Burden Hours: 615 hours.

Request for Comments

The public is invited to comment on all aspects of this ICR, including: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Dated: March 30, 2021.

Elizabeth Voyatzis,

Deputy General Counsel, National Endowment for the Humanities.

[FR Doc. 2021–06986 Filed 4–5–21; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Computer and Information Science and Engineering (CISE) (1115).

Date and Time: May 5, 2021; 11:00 a.m. to 4:30 p.m.;

May 6, 2021; 11:00 a.m. to 4:30 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

Virtual meeting attendance only; to attend the virtual meeting, please send your request for the virtual meeting link to the following email address: *cmessam@nsf.gov.*

Type of Meeting: Open.

Contact Person: KaJuana Mayberry, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–8900; email: *kmayberr@nsf.gov.*

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities in support of CISE research, education, and research infrastructure. To provide advice to the NSF Assistant Director for CISE on issues related to long-range planning, and to form ad hoc

subcommittees and working groups to carry out needed studies and tasks.

Agenda

- NSF and CISE updates
- Breakout discussions on CISE Partnerships and Growing and Diversifying the Domestic Graduate Pipeline
- Office of Advanced Cyberinfrastructure Update

Dated: April 1, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021–07069 Filed 4–5–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral and Economic Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Social, Behavioral and Economic Sciences (#1171) (Virtual).

Date and Time: May 6–7, 2021; 12:00 p.m.–5:00 p.m. (EDT).

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314. Virtual advisory committee meeting via Zoom. Advance registration is required:*https://nsf.zoomgov.com/webinar/register/WN_XC6_1hyGRqGLVPiIjlsFwQ.*

Type of Meeting: Open.

Contact Person: Dr. Deborah Olster, Office of the Assistant Director, Directorate for Social, Behavioral and Economic Sciences; National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8700.

Summary of Minutes: Will be available on SBE advisory committee website at: *https://www.nsf.gov/sbe/advisory.jsp.*

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to Social, Behavioral and Economic Sciences Directorate (SBE) programs and activities.

Agenda Items

- Welcome, Introductions, Approval of Previous Advisory Committee (AC) Meeting Summary, Preview of Agenda
- Directorate for Social, Behavioral and Economic Sciences (SBE) Update
- SBE Contributions to Research, Development, and Equity
- *Women, Minorities and Persons with Disabilities in Science and Engineering* (2021 report)
- The Evidence Act and a National Secure Data Service
- Minerva Research Initiative
- Responding to Pandemics
- SBE Advisory Committee Subcommittee Reports
- Advisory Committee for Environmental Research and Education Update
- Meeting with NSF Leadership
- New AC Member Presentation
- Committee on Equal Opportunities in Science and Engineering Update
- NSF/SBE Funding Opportunities Update
- Wrap-up, Assignments and Closing Remarks

Dated: April 1, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021–07072 Filed 4–5–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval to Renew an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request approval to renew the Hispanic-Serving Institutions (HSI) Certification Form. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by June 7, 2021 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Room W 18000, Alexandria, Virginia 22314; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the NSF, including whether the information shall have practical utility; (b) the accuracy of the NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on 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.

Title of Collection: Hispanic-Serving Institutions (HSI) Certification Form.

OMB Approval Number: 3145–0247.

Expiration Date of Current Approval: July 31, 2021.

Type of Request: Intent to renew an information collection.

Abstract: To enhance the quality of undergraduate STEM education at Hispanic-serving institutions (HSIs), the National Science Foundation (NSF) established the Improving Undergraduate STEM Education: Hispanic-Serving Institutions (HSI Program), in response to the Consolidated Appropriations Act, 2017 (Public Law 115–31) and the American Innovation and Competitiveness Act (Public Law 114–329). The lead institution submitting a proposal to the HSI Program must be an HSI as defined by law in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a) (*http://legcounsel.house.gov/Comps/HEA65_CMD.pdf*). Hence there is a need for institutions to self-certify via an HSI Certification Form.

The HSI Program includes a specific track that provides a funding opportunity for institutions that are new to NSF[5] or are Primarily Undergraduate Institutions (PUIs [6]), including community colleges. PUIs are ''accredited colleges and universities (including two-year community colleges) that award Associates degrees, Bachelor's degrees, and/or Master's degrees in NSF-supported fields, but have awarded 20 or fewer Ph.D./D.Sci. degrees in all NSF-supported fields during the combined previous two academic years.'' PUI definition obtained from *https://www.nsf.gov/funding/pgm_summ.jsp?pims_id=5518.* Hence there is a need for institutions to provide a self-certification of PUI eligibility for this track. The following language is used:

Certification of PUI Eligibility. A Certification of PUI Eligibility, *following the format below and executed by an Authorized Organizational Representative,* must be included in PUI requests (Planning or Pilot Projects (PPP) only). A current, signed Certification, included on institutional letterhead, should be scanned and included as a PDF file.

Certification of PUI Eligibility

By submission of this proposal, the institution hereby certifies that the originating and managing institution is an accredited college or university that awards Associates degrees, Bachelor's degrees, and/or Master's degrees in NSF-supported fields, but has awarded 20 or fewer Ph.D./D.Sci. degrees in all NSF-supported fields during the combined previous two academic years.

Authorized Organizational Representative
Typed Name and Title
Signature
Date

Expected Respondents: Hispanic-Serving Institutions.

Estimate of Burden: We anticipate 175 proposals for 2 minutes which is approximately 6 hours.

Dated: March 26, 2021.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2021–07087 Filed 4–5–21; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0047]

Plant-Specific, Risk-Informed Decisionmaking: Inservice Testing

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment Revision 1 to draft regulatory guide (DG), DG–1286, ''Plant-Specific, Risk-Informed Decisionmaking: Inservice Testing.'' This DG is proposed Revision 1 of RG 1.175, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Inservice Testing.'' It has been revised to incorporate additional information since Revision 0 was issued, particularly information to be consistent with the terminology and defense-in-depth philosophy provided in RG 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis,'' as well as to endorse a standard by the American Society of Mechanical Engineers Code for Operations and Maintenance of Nuclear Power Plant (OM Code).

DATES: Submit comments by May 6, 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. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0047. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Zeechung Wang, telephone: 301–415–1686, email: *Zeechung.Wang@nrc.gov* and Harriet Karagiannis, telephone: 301–415–2493, email: *Harriet.Karagiannis@nrc.gov.* Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0047 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this action, by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0047.
- *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.*
- Attention: The PDR, where you may examine, and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0047 in your comment submission.

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

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

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

This DG, identified by its task number, Revision 1 to DG–1286, titled, ''Plant-Specific, Risk-Informed Decisionmaking: Inservice Testing,'' is a proposed Revision 1 of RG 1.175 (ADAMS Accession No. ML19240B371). This proposed revision of RG 1.175

(Revision 1) describes an approach that is acceptable to the staff of the NRC for developing an alternative request under paragraph 50.55a(z)(1) of title 10 of the *Code of Federal Regulations* (10 CFR) to implement a risk-informed inservice testing (RI–IST) programs and supplements the guidance provided in RG 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis'' (ADAMS Accession No. ML17317A256). It updates the defense-in-depth philosophy to be consistent with the philosophy described in RG 1.174. RG 1.174 was revised in 2018 to expand the meaning of, and the process for, assessing defense-in-depth considerations. Specifically, this proposed revision of RG 1.175 references the defense-in-depth guidance in RG 1.174 in several staff regulatory positions.

Additionally, the staff revised this guide to (1) adopt the term ''PRA acceptability,'' and related phrasing variants, instead of terms such as ''PRA quality,'' ''PRA technical adequacy,'' and ''technical adequacy'' to describe the appropriateness of the probabilistic risk assessment (PRA) used to support risk-informed licensing submittals; (2) update Regulatory Position C.2.3, ''Probabilistic Risk Assessment,'' of this RG to be consistent with Section C.2.3 in RG 1.174, which provides specific considerations with respect to determining the acceptability of the PRA used in risk-informed decisionmaking; and (3) incorporate guidance related to the OM Code incorporated by reference in 10 CFR 50.55a for the inservice testing of pumps and valves at commercial nuclear power plants.

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML19240B374). The staff develops a regulatory analysis to assess the value of issuing or revising a regulatory guide as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

RG 1.175, Revision 1, would provide updated guidance for power reactor applicants and licensees regarding acceptable methods to the staff of the NRC for developing RI–IST programs and supplements the guidance provided in RG 1.174. Issuance of this RG in final form would not constitute backfitting or forward fitting or affect issue finality as further discussed below.

The staff does not intend to impose the positions represented in the draft RG (if finalized) in a manner that would constitute backfitting or affect the issue finality of a part 52 approval. If, in the future, the staff seeks to impose a position in the draft RG (if finalized) in a manner that constitutes backfitting or does not provide issue finality as described in the applicable issue finality provision, then the staff would need to address the backfit rule or the criteria for issue finality as described in the applicable issue finality provision.

The staff does not intend to impose the positions represented in the draft RG (if finalized) in a manner that would constitute forward fitting. If, in the future, the staff seeks to impose a position in the draft RG (if finalized) in a manner that constitutes forward fitting, then the staff would need to address the forward fitting criteria in Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests'' (ADAMS Accession No. ML18093B087).

Dated: April 1, 2021.

For the Nuclear Regulatory Commission.

Edward F. O'Donnell,

Acting Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2021–07088 Filed 4–5–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0067]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of one amendment request. The amendment request is for Oyster Creek Nuclear Generating Station. For the amendment request, the NRC proposes to determine that it involves no significant hazards consideration (NSHC). Because the amendment request contains sensitive unclassified non-safeguards information (SUNSI) and/or safeguards information (SGI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Comments must be filed by May 6, 2021. A request for a hearing or petitions for leave to intervene must be filed by June 7, 2021. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by April 16, 2021.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0067. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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

FOR FURTHER INFORMATION CONTACT: Kay Goldstein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1506, email: *Kay.Goldstein@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0067, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0067.
- *NRC's Agencywide Documents Access and Management System*

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Standard Time (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0067, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

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

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

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes a notice of an amendment containing SUNSI and SGI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment request involve NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for the amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to this action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. EST on the due date. Upon receipt of a transmission, the E-Filing system time stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call to 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., EST, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with

10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Holtec Decommissioning International, LLC; Oyster Creek Nuclear Generating Station; Forked River, NJ

Docket No(s)	50–219.
Application Dates	December 8, 2020, January 29, 2021, and January 29, 2021.
ADAMS Accession Nos	ML20345A249, ML21036A169, and ML21036A170.
Location in Application of NSHC	Attachment 1 Section 5.2.
Brief Description of Amendment(s)	The proposed amendment would revise the Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan (the ''Plan'' or ''Security Plan'') and remove the reference to section 73.55 of title 10 of the *Code of Federal Regulations,* requirements from the Oyster Creek Nuclear Generating Station (OCNGS) operating license. The Security Plan will supersede the current Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan at OCNGS. These changes will more fully reflect the permanently shutdown and defueled status of the facility, as well as the reduced scope of potential radiological accidents and security concerns, once all spent fuel has been permanently moved to dry cask storage within the onsite OCNGS independent spent fuel storage installation, an activity which is currently scheduled for completion in November 2021.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Erin Connolly, Corporate Counsel—Legal, Holtec International, Krishna P. Singh Technology Campus, 1 Holtec Blvd., Camden, NJ 08104.
NRC Project Manager, Telephone Number	Zahira Cruz Perez, 301–415–3808.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

Holtec Decommissioning International, LLC; Oyster Creek Nuclear Generating Station; Forked River, NJ

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including SUNSI and SGI). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Hearings and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the Electronic Questionnaires for Investigations Processing website, a secure website that is owned and operated by the Defense Counterintelligence and Security Agency (DCSA). To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–415–3710.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 will be provided in the background check request package supplied by the Office of Administration for each individual for whom a background check is being requested. The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of $326.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: U.S. Nuclear Regulatory Commission, Office of Administration, ATTN: Personnel Security Branch, Mail Stop TWFN–07D04M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.[5]

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the DCSA's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: March 10, 2021.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.

[6] Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28 ..	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53 ..	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60 ..	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2021–05311 Filed 4–5–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 5, 12, 19, 26, May 3, 10, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of April 5, 2021

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.

Week of May 10, 2021—Tentative

There are no meetings scheduled for the week of May 10, 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: April 2, 2021.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021–07147 Filed 4–2–21; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91445; File No. SR–OCC–2021–004]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Revisions to OCC's Auction Participation Requirements

March 31, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 19, 2021, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by OCC would amend the auction participation requirements set forth Interpretation and Policy (''I&P'') .02(c) to OCC Rule 1104 (Creation of Liquidating Settlement Account). The proposed changes to OCC Rules are included in Exhibit 5 of File No. SR–OCC–2021–004. Material proposed to be added to OCC's Rules as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Background

Rule 1102 enumerates the grounds upon which OCC may suspend one of its Clearing Members.[4] Following the suspension of any Clearing Member, OCC would take a number of steps designed to reasonably ensure that the Clearing Member's suspension is managed in an orderly fashion. Among the steps that OCC may take to manage a Clearing Member's suspension is liquidating the remaining collateral, open positions and/or exercised/matured contracts (*i.e.,* the remaining portfolio) of the suspended Clearing Member. Interpretation and Policy .02(a) to Rule 1104 clarifies that OCC ''may elect to use one or more private auctions to liquidate all or any part'' of a suspended Clearing Member's remaining portfolio. In this context, the term ''private auction'' means an auction open to bidders who are invited by OCC and in which such bidders submit bids on a confidential basis.[5]

Interpretation and Policy .02(c) to Rule 1104 (''I&P .02(c)'') establishes certain basic requirements for OCC's private auction process. I&P .02(c) states that OCC ''will invite all Clearing Members to apply to become pre-qualified auction bidders'' and that ''[a]ny Clearing Member may be included in the pool of pre-qualified auction bidders by completing required auction documentation in advance.'' Further, I&P .02(c) states that ''[b]y posting notices on the [OCC]'s website from time to time, [OCC] will also invite non-Clearing Members to apply to become pre-qualified auction bidders.'' I&P .02(c) also establishes that for a non-Clearing Member to be pre-qualified as an auction bidder, it ''must (i) actively trade in the asset class in which it proposes to submit bids, (ii) actively trade in markets cleared by [OCC], (iii) be sponsored by, and submit its bids through, a Clearing Member that has agreed to guarantee and settle any accepted bid made by such non-Clearing Member and (iv) complete required auction documentation in advance.'' I&P .02(c) also states that OCC ''will endeavor to maintain a pool of pre-qualified auction bidders by periodically reviewing such bidders and their qualifications'' and that OCC ''will promptly notify any pre-qualified auction bidder removed from the pool of pre-qualified auction bidders.''

Proposed Change

OCC is proposing to change I&P .02(c) in order to clarify and further facilitate the process of on-boarding Clearing Members and non-Clearing Members as potential bidders in future auctions of a suspended Clearing Member's remaining portfolio. To achieve a successful auction pursuant to Rule 1104 and enable OCC to take timely action to contain any losses and liquidity pressures that may be caused by a Clearing Member's default, it is important for OCC to encourage participation in such auctions. OCC believes that participation by more bidders generally facilitates more competitive bids on a suspended Clearing Member's portfolio. Competitive bids are necessary for OCC to sell the portfolio at a market price that minimizes the loss to OCC and its Clearing Members, and enable OCC to successfully complete an auction in a timely manner and thereby manage a Clearing Member default in a timely manner. Therefore, OCC proposes to make two related revisions to I&P .02(c), as described below. OCC also proposes to delete current rule text in I&P .02 related to OCC's internal administration of pre-qualified auction bidders, also described below.

First, OCC proposes to revise I&P .02(c) to reflect that Clearing Members would not need to be invited by OCC to become pre-qualified auction bidders; instead, the revised language in I&P .02(c) would make clear that all Clearing Members are invited to participate in auctions of a suspended Clearing Member's remaining portfolio. OCC would retain, but slightly rephrase, the existing requirement that any Clearing Member seeking to be included in the pool of pre-qualified auction bidders must complete required auction documentation in advance; OCC's proposed changes would explain that in order for a Clearing Member to be pre-qualified as an auction bidder, the Clearing Member would need to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

[4] The grounds for suspension, as summarized, include a Clearing Member (i) having been expelled or suspended from any self-regulatory organization; (ii) failing to make any delivery of cash, securities or other property to OCC in a timely manner as required by OCC's By-Laws or Rules; (iii) failing to make any delivery of funds or securities to another Clearing Member required pursuant to OCC's By-Laws or Rules; (iv) failing to make any delivery of funds or securities to the correspondent clearing corporation in a timely manner; (v) being in such financial or operating difficulty that OCC's Board of Directors or a Designated Officer determines that suspension is necessary for the protection of OCC, other Clearing Members, or the general public; or (vi) in the case of a non-U.S. Clearing Member, having been expelled or suspended by its non-U.S. regulator or any securities exchange or clearing organization of which it is a member.

[5] Interpretation and Policy .02(a) to Rule 1104.

complete any required auction documentation in advance.

Second, OCC proposes to revise I&P .02(c) to reflect that non-Clearing Members would no longer need to be invited to become pre-qualified auction bidders by OCC posting notices to its website from time-to-time. Further, the revisions to I&P .02(c) would remove the existing requirements that a non-Clearing Member must actively trade in the asset class in which it proposes to submit bids and must actively trade in markets cleared by OCC. Instead, the revisions to I&P .02(c) would make clear that non-Clearing Members could become pre-qualified auction bidders by (i) having a Clearing Member sponsor to submit bids on behalf of the non-Clearing Member, (ii) having a Clearing Member agree to guarantee and settle any accepted bid made by the non-Clearing Member, and (iii) completing any required auction documentation in advance.

OCC is also proposing to delete from I&P .02(c) two sentences that discuss OCC's administration of the pool of pre-qualified auction bidders. Currently, I&P .02(c) explains that OCC maintains a pool of pre-qualified auction bidders, periodically reviews the pool of such bidders and their qualifications, and notifies any pre-qualified auction bidder that is removed from the pool. OCC is concerned that the trading activity review process contemplated by I&P .02(c) could inappropriately limit the number of pre-qualified bidders by excluding, *inter alia,* prospective bidders who did not have sufficient trading activity that was visible to OCC at the time of pre-qualification or review but were suitable bidders at the time of a particular auction. Accordingly, OCC proposes to eliminate the pre-qualification requirements related to a non-Clearing Member's trading experience.

OCC will continue to perform the pre-auction review described in Interpretation & Policy .02(d) to Rule 1104 (''I&P .02(d)''). This will allow OCC to maximize the number of pre-qualified bidders and select bidders for a particular auction based on an objective review that gives due consideration to the specific portfolio that will be auctioned. The proposal also eliminates the need for a periodic review and removal process. Under the proposed rule, a Clearing Member that terminates its required auction documentation or ceases to maintain its status as a Clearing Member will no longer be considered a pre-qualified auction bidder. Likewise, a non-Clearing Member will no longer be considered a pre-qualified bidder if its Clearing Member sponsorship or guarantee is revoked or its required auction documentation is terminated. OCC notes that it would continue its current practice of maintaining a list of pre-qualified bidders through OCC's default management testing and review of default management testing results.

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (the ''Act''),[6] and the rules and regulations thereunder because the proposed change is generally designed to (i) promote the prompt and accurate clearance and settlement of transactions cleared by OCC, (ii) assure the safeguarding of securities and funds in OCC's custody, and (iii) protect investors and the public interest by clarifying and further facilitating the process of on-boarding Clearing Members and non-Clearing Members as potential bidders in future auctions of a suspended Clearing Member's remaining portfolio. The proposed change would further facilitate on-boarding of potential bidders by removing certain administrative obstacles in the process of becoming a pre-qualified auction bidder (*e.g.,* non-Clearing Members seeking invitations to become pre-qualified auction bidders posted to OCC's website from time-to-time). OCC believes that the removal of these administrative obstacles itself would not materially impact risks to OCC but would simplify the on-boarding process in a way that is intended to facilitate on-boarding potential bidders in future auctions, which potentially could have the result of increasing participation in future auctions.

As described herein, the potential for increased participation in future auctions would improve the likelihood that in any particular auction there is greater competition among auction bidders that results in a qualified bidder submitting a bid that OCC deems acceptable and that minimizes loss to OCC's default management resources. If OCC does not obtain a satisfactory bid, OCC may need to conduct additional auctions on subsequent days or else determine the auction process has been unsuccessful and utilize other default management tools.[7] Similarly, a lack of competitive bidding may require OCC to accept a best bid that results in greater loss to OCC's default management resources than OCC would have been able to accept through more competitive bidding that resulted in a higher best bid. Accordingly, to the extent OCC receives more competitive bids OCC could liquidate a suspended Clearing Member's remaining portfolio without the need for additional auctions or the use of other default management tools, and similarly increase the likelihood that OCC receives a best bid that minimizes loss to its default management resources. OCC believes these improvements, generally, would (i) promote prompt and accurate clearance and settlement as a result of shorter close-out periods and more competitive auction prices; (ii) help assure the safeguarding of securities and funds in OCC's custody by reducing the risk of loss to such securities and funds from unallocated open positions; and (iii) inure to the benefit of investors and the public for the same reasons.

The proposed change would also remove existing limitations on non-Clearing Members seeking to become pre-qualified bidders (*e.g.,* a non-Clearing Member must actively trade in the asset class in which it proposes to submit bids and must actively trade in markets cleared by OCC). OCC similarly believes that the removal of these requirements would not materially impact risks to OCC. Any Clearing Member sponsoring, submitting bids on behalf of, and guaranteeing a non-Clearing Member auction bidder would itself need to have been approved by OCC to clear the products on which its sponsored non-Clearing Member might bid. In addition, the Clearing Member would need to have approved its sponsored non-Clearing Member to trade in the products on which the sponsored non-Clearing Member intends to bid. Finally, before submitting a bid on behalf of any sponsored non-Clearing Member, the Clearing Member would need to accept that it is willing to guarantee the sponsored non-Clearing Member's performance should its bid be selected as the winning bid in the auction. OCC believes these safeguards obviate the need for maintaining the requirements in current I&P .02(c) that any non-Clearing Member seeking to become pre-qualified auction bidders must actively trade in the asset class in which it proposes to submit bids and must actively trade in markets cleared by OCC, because they allow OCC to consider a non-Clearing Member's (and/or its sponsor Clearing Member's) financial strength, demonstrated activity in the products being auctioned and

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *See e.g.,* Securities Exchange Act Release No. 34–82351 (December 19, 2017); 82 FR 61107 (December 26, 2017) (File No. SR–OCC–2017–020).

qualification to clear transactions in the relevant asset classes at the time of a particular auction.

Furthermore, a bidder's pre-qualification does not mean that OCC would automatically include that bidder in any particular auction. Rather, OCC would continue to determine an appropriate pool of auction bidders on a case-by-case basis using the criteria established in I&P .02(d). OCC believes that reviewing the criteria set forth in I&P .02(d) with respect to a particular auction is the most appropriate way for OCC to identify, monitor and manage the material risks arising from a non-Clearing Member auction participant in accordance with Rule 17Ad–22(e)(19).[8] The financial strength, trading activity and Clearing Member relationships of a non-Clearing Member may vary over time. OCC in the best position to identify, monitor and manage the material risks arising from a non-Clearing Member auction participant if it considers the criteria set forth in I&P .02(d) with respect to a particular auction portfolio at the time it selects bidders. For the reasons described above, OCC believes that the removal of the pre-qualification requirements related to a non-Clearing Member's trading activities would not materially impact risks to OCC, but would simplify the on-boarding process in a way that is intended to facilitate on-boarding potential bidders in future auctions, which potentially could have the result of increasing participation in future auctions. The potential for increased participation in future auctions could improve the ability of OCC to timely liquidate a suspended Clearing Member's remaining portfolio, which generally would inure to the benefit of investors and the public.

OCC believes that the proposed rule change is also consistent with Rule 17Ad–22(e)(13) because it is reasonably designed to ensure OCC has operational capacity to take timely action to contain losses.[9] As explained above, OCC believes that by removing certain administrative obstacles in the process of becoming a pre-qualified auction bidder (*e.g.,* non-Clearing Members seeking invitations to become pre-qualified auction bidders posted to OCC's website from time-to-time) and by removing existing limitations on non-Clearing Members seeking to become pre-qualified bidders (*e.g.,* a non-Clearing Member must actively trade in the asset class in which it proposes to submit bids and must actively trade in markets cleared by OCC), the proposed change would clarify and further facilitate the process of on-boarding Clearing Members and non-Clearing Members as potential bidders in future auctions of a suspended Clearing Member's remaining portfolio. OCC believes the proposed change would not materially impact risks to OCC and would simplify the on-boarding process in a way that is intended to facilitate on-boarding potential bidders in future auctions, which potentially could have the result of increasing participation in future auctions. By improving the potential for increased participation in future auctions, the proposed change is reasonably designed to ensure OCC has operational capacity to take timely action to contain losses from a suspended Clearing Member's remaining portfolio.

Finally, Section 19(b)(1) of the Act and Rule 19b–4 thereunder set forth the requirements for self-regulatory organization (''SRO'') proposed rule changes, including the regulatory filing requirements for ''stated policies, practices and interpretations'' (''SPPIs'').[10] OCC proposes to delete current rule text in I&P .02(c) describing OCC's maintenance of the list of pre-qualified auction bidders. OCC believes that the current rule text describing OCC's internal administration of pre-qualified auction bidders is concerned solely with the administration of OCC, and also is reasonably and fairly implied by the existing rule text, described herein, establishing the requirements to become a pre-qualified auction bidder, including the completion any required auction documentation, and therefore the current rule text does not constitute an SPPI of OCC. Accordingly, OCC believes the proposed changes would be consistent with the requirements of Section 19(b)(1) of the Act and Rule 19b–4 thereunder.[11]

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.[12] OCC believes the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the proposed rule change would apply equally to all Clearing Members. Similarly, OCC believes the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the proposed rule change would equally impose on non-Clearing Members the minimum requirements necessary to permit them to participate in auctions (*i.e.,* (i) having a Clearing Member sponsor and submit bids on behalf of the non-Clearing Member, (ii) having a Clearing Member agree to guarantee and settle any accepted bid made by the non-Clearing Member, and (iii) completing any required auction documentation in advance). Moreover, participation in any auction of a suspended Clearing Member's remaining portfolio is voluntary for Clearing Members and non-Clearing Members; so no particular user of OCC's services would be required to become a pre-qualified auction bidder or participate in an auction.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self- regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

[8] 17 CFR 240.17Ad–22(e)(19).

[9] 17 CFR 240.17Ad–22(e)(13).

[10] Section 19(b)(1) of the Exchange Act requires an SRO such as OCC to file with the Commission any proposed rule or any proposed change in, addition to, or deletion from the rules of such SRO. *See* 15 U.S.C. 78s(b)(1). Section 3(a)(27) of the Exchange Act defines ''rules of a clearing agency'' to mean its (1) constitution, (2) articles of incorporation, (3) bylaws, (4) rules, (5) instruments corresponding to the foregoing and (6) such ''stated policies, practices and interpretations'' as the Commission may determine by rule. *See* 15 U.S.C. 78c(a)(27). Exchange Act Rule 19b–4(a)(6) defines the term ''SPPI'' to mean, in addition to certain publicly facing statements, ''any material aspect of the operation of the facilities of the [SRO].'' *See* 17 CFR 240.19b–4(a)(6). Rule 19b–4(c) provides, however, that an SPPI may not be deemed to be a proposed rule change if it is (i) reasonably and fairly implied by an existing rule of the SRO or (ii) concerned solely with the administration of the SRO and is not an SPPI with respect to the meaning, administration, or enforcement of an existing rule of the SRO.

[11] *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4.

[12] 15 U.S.C. 78–q1(b)(3)(I).

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2021–004 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–OCC–2021–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

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–OCC–2021–004 and should be submitted on or before April 27, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06989 Filed 4–5–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91446; File No. SR–NASDAQ–2020–017]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Disapproving a Proposed Rule Change To Amend Nasdaq Rule 5704

March 31, 2021.

I. Introduction

On July 23, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain listing requirements relating to maintaining a minimum number of beneficial holders and minimum number of shares outstanding. The proposed rule change was published for comment in the **Federal Register** on August 7, 2020.[3]

On September 10, 2020, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On November 5, 2020, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On January 26, 2021, the Commission designated a longer period for Commission action on the proposed rule change.[8] The Commission has received comment letters on the proposed rule change.[9]

This order disapproves the proposed rule change because, as discussed below, Nasdaq has not met its burden under the Exchange Act and the Commission's Rules of Practice to demonstrate that its proposal is consistent with the requirements of Exchange Act Section 6(b)(5), and, in particular, the requirement that the rules of a national securities exchange be designed ''to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.''[10]

II. Description of the Proposal

As described in detail in the Notice and OIP, the Exchange proposes to amend Nasdaq Rule 5704 to: (1) Remove the requirement that, twelve months after the commencement of trading on the Exchange, a series of Exchange Traded Fund Shares must have 50 or more beneficial holders (''Beneficial Holders Rule''); and (2) replace its existing minimum number of shares requirement (''Minimum Shares Outstanding Rule'') with a requirement that each series of Exchange Traded Fund Shares have a sufficient number of shares outstanding at the commencement of trading to facilitate the formation of at least one creation unit.[11]

The Exchange asserts that the Beneficial Holders Rule is no longer necessary. The Exchange argues that the requirements of Rule 6c–11 under the Investment Company Act of 1940 (''1940 Act''), coupled with the existing creation and redemption process, mitigate the potential lack of liquidity that, according to the Exchange, the Beneficial Holders Rule was intended to address.[12] The Exchange further asserts that requiring a sufficient number of shares to be outstanding at all times to facilitate the formation of at least one creation unit, together with the daily portfolio transparency and other enhanced disclosure requirements of

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89464 (August 4, 2020), 85 FR 48012 (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 89823, 85 FR 57895 (September 16, 2020).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 90355, 85 FR 71977 (November 12, 2020) (''OIP'').

[8] *See* Securities Exchange Act Release No. 90994, 86 FR 7750 (February 1, 2021).

[9] Comments on the proposed rule change can be found on the Commission's website at: *https://www.sec.gov/comments/sr-nasdaq-2020-017/srnasdaq2020017.htm*.

[10] 15 U.S.C. 78f(b)(5).

[11] Currently, Nasdaq Rule 5704(b)(1)(A) provides that the Exchange will establish a minimum number of Exchange Traded Fund Shares required to be outstanding at the time of commencement of trading on the Exchange.

[12] In contrast, Nasdaq believes that the shareholder requirement applicable to common stock is a measure of liquidity designed to help assure that there will be sufficient investor interest and trading to support price discovery once a security is listed. *See* Notice, *supra* note 3 at 48012, n.6.

Rule 6c-11 under the 1940 Act,[13] will facilitate an effective arbitrage mechanism and provide market participants and investors with sufficient transparency into the holdings of the underlying portfolio, and ensure that the trading price in the secondary market remains in line with the per-share value of a fund's portfolio.

Specifically with respect to arbitrage, the Exchange states that the arbitrage mechanism relies on the fact that shares of a fund can be created and redeemed and that shares of a fund are able to flow into or out of the market when the price of the fund is not aligned with the net asset value per share of the portfolio. The resulting buying and selling of the shares of the fund, as well as the underlying portfolio components, generally causes the market price and the net asset value per share to converge. In addition, the Exchange states that the proper functioning of the arbitrage mechanism is reliant on the presence of authorized participants (''APs'') that are eligible to facilitate creations and redemptions with the fund and support the liquidity of the fund. As a result, the Exchange states that the AP is able to buy and sell Exchange Traded Fund Shares from both the fund and investors. Because Exchange Traded Fund Shares can be created and redeemed ''in-kind'' and do not have an upper limit of the number of shares that can be outstanding, an AP can fulfill customer orders or take advantage of arbitrage opportunities regardless of the number of shares currently outstanding. Thus, the Exchange believes that, unlike common stock, the liquidity of Exchange Traded Fund Shares is not dependent on the number of shares currently outstanding or the number of shareholders, but on the availability of APs to transact in the Exchange Traded Fund Shares primary market.

To support these contentions, the Exchange provides information, during a two-month observation period, regarding how closely two funds—the SPY and QQQ—tracked their respective underlying indexes, as well as data regarding creation and redemption activity in those two funds during the same observation period. The Exchange asserts that a symbiotic relationship exists between the disclosure requirements of Rule 6c–11 under the 1940 Act, the ability of the AP to create and redeem shares of a fund, and the functioning of the arbitrage mechanism that helps to ensure that the trading price in the secondary market is at fair value. According to the Exchange, this renders the need for a Beneficial Holders Rule as duplicative and unnecessary.

The Exchange further asserts that, in order for fund redemptions to be executed in support of the arbitrage mechanism, it is appropriate that, in lieu of the Beneficial Holders Rule, the fund have a sufficient number of shares outstanding in order to facilitate the formation of at least one creation unit on an initial and continued listing basis. The Exchange claims that the existence of the creation and redemption process, daily portfolio transparency, as well as a sufficient number of shares outstanding to allow for the formation of at least one creation unit, ensures that market participants are able to redeem shares and thereby support the proper functioning of the arbitrage mechanism. According to the Exchange, of the more than 350 funds currently listed on Nasdaq that would be eligible to be listed under Nasdaq Rule 5704, only two had a single creation unit outstanding. The remaining funds have, on average, shares outstanding equal to approximately 300 creation units.

In addition, the Exchange states that its surveillance program for, and its ability to halt trading in, Exchange Traded Fund Shares provide for additional investor protections by further mitigating any abnormal trading that would affect the prices of Exchange Traded Fund Shares.

The Commission received two comment letters on the proposal, one comment in support of the proposal and one comment unrelated to the proposal.[14] The commenter in favor of the proposal states that the Beneficial Holders Rule ''does not appear to provide any meaningful investor-protection benefits.'' [15] Specifically, the commenter expresses the view that the liquidity of shares of an exchange-traded fund (''ETF'') is primarily a function of the liquidity of the ETF's underlying securities, that the marketplace taps into this liquidity through the creation and redemption and arbitrage processes, and that this mitigates potential price manipulation concerns.[16] In addition, the commenter believes that the enhanced disclosure requirements of Rule 6c–11 under the 1940 Act,[17] including those relating to an ETF's portfolio holdings and when an ETF's premium or discount exceeds 2% for more than seven consecutive days, will help facilitate effective arbitrage. The commenter conducted a survey of its members that sought information on level of assets, number of beneficial holders, and various trading measures of newly-listed ETFs over different periods following initial listing, and concluded that the number of shareholders in an ETF does not appear to be a significant consideration in an ETF's sponsor's decision to delist and terminate an ETF and that this requirement does not appear to offer investor protection benefits.[18]

III. Discussion and Commission Findings

The Commission must consider whether Nasdaq's proposal is consistent with Section 6(b)(5) of the Exchange Act, which requires, in relevant part, that the rules of a national securities exchange be designed ''to prevent fraudulent and manipulative acts and practices'' and ''to protect investors and the public interest.'' [19] Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed

[13] As an example, the Exchange notes that Rule 6c–11(c)(1)(vi) under the 1940 Act requires additional disclosure if the premium or discount is in excess of 2% for more than seven consecutive days and argues that this disclosure would provide additional transparency to investors in the event that the trading value and the underlying portfolio deviate for an extended period of time, which could indicate an inefficient arbitrage mechanism.

[14] *See* Letter from Timothy W. Cameron, Asset Management Group—Head, and Lindsey Weber Keljo, Asset Management Group—Managing Director and Associate General Counsel, SIFMA AMG (December 18, 2020) (''SIFMA Letter''). The second comment letter received was made in connection with a different Nasdaq rule proposal, therefore, this second comment letter is not addressed here. *See* Letter from Rungsun Pakyo Gunkoom (August 4, 2020) (referencing the file number to this proposed rule change but commenting on a different Nasdaq proposal).

[15] SIFMA Letter, *supra* note 14, at 3.

[16] *See id.*

[17] *See id.* at 3–4. The commenter also states that the Beneficial Holders Rule puts newer and smaller sponsors at an unnecessary disadvantage to larger sponsors having the enterprise-wide scale and distribution reach to gather assets in the months after launch. *See id.*

[18] *See id.*

[19] 15 U.S.C. 78f(b)(5). Pursuant to Section 19(b)(2) of the Exchange Act, 15 U.S.C. 78s(b)(2), the Commission must disapprove a proposed rule change filed by a national securities exchange if it does not find that the proposed rule change is consistent with the applicable requirements of the Exchange Act. Exchange Act Section 6(b)(5) states that an exchange shall not be registered as a national securities exchange unless the Commission determines that ''[t]he rules of the exchange are 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 are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the exchange.'' 15 U.S.C. 78(f)(b)(5).

rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [20]

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[21] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[22] Moreover, ''unquestioning reliance'' on an SRO's representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.[23]

The Commission has consistently recognized the importance of the minimum number of holders and other similar requirements, stating that such listing standards help ensure that exchange listed securities have sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly markets.[24] As stated by a commenter, the minimum number of holders requirement also helps to mitigate the risks of manipulation.[25]

As discussed above, the Exchange is proposing to (1) remove the Beneficial Holders Rule applicable to Exchange Traded Fund Shares listed on Nasdaq, and (2) replace its existing Minimum Shares Outstanding Rule with a requirement that each series of Exchange Traded Fund Shares have a sufficient number of shares outstanding at the commencement of trading to facilitate the formation of at least one creation unit.[26] In support of its proposal, the Exchange asserts that the Beneficial Holders Rule is no longer necessary because the requirements of Rule 6c–11 under the 1940 Act, coupled with the existing creation and redemption process, mitigate the potential lack of liquidity that Nasdaq believes the Beneficial Holders Rule was intended to address. However, the Exchange does not sufficiently support its assertions under the Exchange Act, particularly where a series of Exchange Traded Fund Shares is permitted to have a very small number of beneficial holders. For example, while the Exchange provides data with respect to two widely held and highly liquid funds, SPY and QQQ, and explains the role of APs in the creation and redemption process, it does not sufficiently address how the arbitrage mechanism will ensure Exchange Traded Fund Shares with very few beneficial holders would be sufficiently liquid to support fair and orderly markets. The Exchange also does not discuss in sufficient detail the potential inefficiencies in the arbitrage mechanism that might occur with illiquid Exchange Traded Fund Shares that have very few holders, and the impact that would have on the ability of the arbitrage mechanism to effectively mitigate the risks of manipulation. In addition, the Exchange does not sufficiently explain how an efficient and effective arbitrage mechanism and sufficient liquidity could result for a series of Exchange Traded Fund Shares held only by a very few number of buy-and-hold investors and thereby mitigate manipulation risks. Further, the Exchange does not sufficiently address the impact of creation unit size on the efficiency of the arbitrage mechanism. For example, with respect to a series of illiquid Exchange Traded Fund Shares with very few beneficial holders, the Exchange does not describe how the proposal is designed to mitigate the risks of manipulation if the creation unit size for the Exchange Traded Fund Shares is large in comparison to the total number of Exchange Traded Fund Shares outstanding. The Exchange provides no data or analysis to support its position, other than with respect to the SPY and QQQ, two highly liquid and widely held ETFs, and the number and size of the creation units for existing Exchange Traded Fund Shares. In fact, although the Exchange discusses risks relating to lack of liquidity, the Exchange fails to provide any analysis regarding susceptibility to manipulation under the Exchange Act in the proposed rule change. As discussed above, the Beneficial Holders Rule and other minimum number of holders requirements are important to ensure that trading in exchange listed securities is fair and orderly and not susceptible to manipulation, and the Exchange does not sufficiently explain why its proposed modification of these requirements is consistent with the Exchange Act.

While the Exchange also proposes to replace the existing Minimum Shares Outstanding Rule with a requirement that each series of Exchange Traded Fund Shares have a sufficient number of shares outstanding at the commencement of trading to facilitate the formation of at least one creation unit, the Exchange does not sufficiently explain why this is an appropriate substitute for its existing standards. Creation unit sizes could be highly variable, since they are determined at the discretion of the issuer of Exchange Traded Fund Shares, and the Exchange has not articulated how this new standard would effectively support fair and orderly markets, address the risks of manipulation, and otherwise be consistent with Section 6(b)(5) and other relevant provisions of the Exchange Act. The Exchange concludes that the existence of the creation and redemption process, daily portfolio transparency, and a sufficient number of shares outstanding to allow for the formation of at least one creation unit would ensure that market participants are able to redeem shares and thereby support the proper functioning of the arbitrage mechanism. The Exchange, however, fails to explain in sufficient detail how an efficient and effective arbitrage mechanism could result for an illiquid series of Exchange Traded Fund Shares held by very few beneficial holders and with only one creation unit of Exchange Traded Fund Shares outstanding. The Exchange presents evidence that, of the over 350 funds whose shares are currently listed on Nasdaq that would be eligible to be listed under Nasdaq Rule 5704, only two had a single creation unit

[20] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[21] *See id.*

[22] *See id.*

[23] *Susquehanna Int'l Group, LLP* v. *Securities and Exchange Commission,* 866 F.3d 442, 447 (D.C. Cir. 2017).

[24] The Commission considers distribution standards, including minimum number of holders and number of shares outstanding requirements, to be important means of promoting fair and orderly markets. *See, e.g.,* Securities Exchange Act Release No. 57785 (May 6, 2008), 73 FR 27597 (May 13, 2008) (SR–NYSE–2008–17) (stating that the distribution standards, which include exchange holder and number of shares outstanding requirements ''. . . should help to ensure that the [Special Purpose Acquisition Company's] securities have sufficient public float, investor base, and liquidity to promote fair and orderly markets''); Securities Exchange Act Release No. 86117 (June 14, 2019), 84 FR 28879 (June 20, 2018) (SR–NYSE–2018–46) (disapproving a proposal to reduce the minimum number of public holders continued listing requirement applicable to Special Purpose Acquisition Companies from 300 to 100).

[25] *See* SIFMA Letter, *supra* note 14, at 3 (stating that the Beneficial Holders Rule was intended to address ''potential price manipulation,'' among other things).

[26] The Commission identified its concern in the OIP that, while Nasdaq states that it would require that a sufficient number of shares to be outstanding at ''all times'' to facilitate the formation of at least one creation unit, proposed Nasdaq Rule 5704(b)(1)(A) establishes that requirement ''at the time of commencement of trading on Nasdaq,'' making it an initial and not a continued listing standard. *See* OIP, *supra* note 7, 85 FR at 71978, n.14. As discussed below, the Exchange has not responded to the concerns raised in the OIP.

outstanding, and that the remaining funds have, on average, shares outstanding equal to approximately 300 creation units. However, this data does not establish that arbitrage opportunities would sufficiently mitigate manipulation concerns for all series of Exchange Traded Fund Shares, including those with only a single creation unit outstanding and those overlying a portfolio of instruments that are illiquid.

Finally, while the Exchange asserts that its surveillance procedures and trading halt authority would provide for additional investor protections by mitigating any abnormal trading that would affect Exchange Traded Fund Shares prices, it does not offer any explanation of the basis for that view or provide any supporting information or evidence to support its conclusion. Notably, the Exchange does not explain how any of its specific existing surveillance procedures or administration of its trading halt authority effectively address, in the absence of the Beneficial Holders Rule [27] and under the proposed replacement of the Minimum Shares Outstanding Rule, manipulation concerns and other regulatory risks to fair and orderly markets, investor protection, and the public interest. Accordingly, the Commission is unable to assess whether the Exchange's assertion has merit.

The Commission identified all of these concerns in the OIP, but the Exchange has not responded or provided additional data addressing these concerns.[28] As stated above, under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [29] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding, and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[30] The Commission concludes that, because Nasdaq has not demonstrated that its proposal is designed to prevent fraudulent and manipulative acts and practices or to protect investors and the public interest, the Exchange has not met its burden to demonstrate that its proposal is consistent with Section 6(b)(5) of the Exchange Act.[31] For this reason, the Commission must disapprove the proposal.

IV. Conclusion

For the reasons set forth above, the Commission does not find, pursuant to Section 19(b)(2) of the Exchange Act,[32] that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Exchange Act.[33]

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act, that proposed rule change SR–NASDAQ–2020–017 is disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06987 Filed 4–5–21; 8:45 am]

BILLING CODE 8011–01–P

[27] *See supra* note 25 and accompanying text.

[28] *See* OIP, *supra* note 7. The commenter asserts that the creation and redemption processes, which tap into the liquidity of the underlying holdings, coupled with the enhanced disclosures mandated under Rule 6c–11 under the 1940 Act, mitigate manipulation concerns. *See* SIFMA Letter, *supra* note 14, at 3. However, neither the Exchange nor the commenter explains why arbitrage opportunities would sufficiently mitigate manipulation concerns for the full range of ETFs, including ETFs overlying a portfolio of instruments that are themselves illiquid, or where market interest in the ETF is not sufficient to attract effective arbitrage activity. While the Exchange and the commenter assert that certain disclosures under Rule 6c–11 under the 1940 Act provide investors with transparency into the holdings of the underlying portfolio and additional insight into the effectiveness of an ETF's arbitrage (*see* Notice, *supra* note 3, 85 FR at 48012, 48015; SIFMA Letter, *supra* note 14, at 3–4; *supra* note 13 and accompanying text), neither the Exchange nor the commenter sufficiently explains how such disclosures might prevent manipulation. In addition, while the commenter states that its survey data showed that an ETF's number of shareholders, level of assets, and liquidity tended to improve after three years of operation as compared to one year, the commenter does not assert that the survey addressed the concerns about potential manipulation that the proposal raises, as described above.

[29] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[30] *See id.*

[31] In disapproving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f). Although the commenter (*see* SIFMA Letter, *supra* note 14, at 4) asserts that the current Beneficial Holders Rule puts newer and smaller sponsors at an unnecessary disadvantage to larger sponsors having the enterprise-wide scale and distribution reach to gather assets in the months after launch, neither the commenter nor the Exchange has provided data to support this conclusion.

[32] 15 U.S.C. 78s(b)(2).

[33] 15 U.S.C. 78f(b)(5).

[34] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2021–0007]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA

Comments: https://www.reginfo.gov/public/do/PRAMain. Submit your comments online, referencing Docket ID Number [SSA–2021–0007].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2021–0007].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 7, 2021. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Application for Mother's or Father's Insurance Benefits—20 CFR 404.339–*

404.342, 20 CFR 404.601–404.603—0960–0003. Section 202(g) of the Social Security Act (Act) provides for the payment of monthly benefits to the widow or widower of an insured individual if the surviving spouse is caring for the deceased worker's child (who is entitled to Social Security benefits). The Social Security Administration (SSA) uses the information on Form SSA–5–BK to determine an individual's eligibility for mother's or father's insurance benefits. The respondents are individuals caring for a child of the deceased worker who is applying for mother's or father's insurance benefits under the Old Age, Survivors, and Disability Insurance program.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours) for responses	Average theoretical cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–5–BK (Paper)	28	1	15	7	* $25.72	.....	*** $180
SSA–5 (Personal Interview)	23,123	1	15	5,781	* $25.72	** 24	*** $386,572
Total	23,151	.....	.....	5,788	.....	.....	*** $386,752

* We based this figure on the average hourly wage for all occupations in May 2019 as reported by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Claim for Amounts Due in the Case of a Deceased Beneficiary—20 CFR 404.503(b)—0960–0101.* Section 204(d) of the Act provides that if an individual dies before payment under Title II is complete, or before a Medicare premium refund is due, SSA will pay the amount due (including the amount of any check not negotiated) to people who meet specified qualifications under an order of priority. When a Social Security payment, or Medicare premium, was due to a deceased beneficiary at the time of death, and there is insufficient information in the file to identify the people entitled to the payment, or their addresses, SSA asks the surviving spouse, next of kin, or legal representative of the estate to complete Form SSA–1724, Claim for Amounts Due in the Case of a Deceased Beneficiary. SSA collects the information when a surviving child(ren), parent(s), or spouse is not already entitled to a monthly benefit on the same earnings record, or is not filing for a lump-sum death payment as a former spouse. SSA uses the information Form SSA–1724 provides to ensure proper payment of an underpayment due to a deceased beneficiary. The respondents are applicants for Title II underpayments or Medicare premium refunds owed to deceased beneficiaries.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–1724	250,000	1	10	41,667	* $25.72	** 24	*** $3,643,675

* We based this figure on the average hourly wage for all occupations in May 2019 as reported by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. *Claimant's Recent Medical Treatment—20 CFR 404.1512 and 416.912—0960–0292.* Claimants have a right to request a hearing before an administrative law judge (ALJ). For the hearing, SSA asks the claimant to complete and return the HA–4631 if the claimant's file does not reflect a current, complete medical history as the claimant proceeds through the appeals process. ALJs obtain the information to update and complete the record and to verify the accuracy of the information. Through this process, ALJs can ascertain whether the claimant's situation has changed. The ALJs and hearing office staff use the response to make arrangements for consultative examination(s) and the attendance of an expert witness(es), if appropriate. During the hearing, the ALJ offers any completed questionnaires as exhibits and may use them to: (1) Refresh the claimant's memory, and (2) shape their questions. The respondents are claimant's requesting hearings on entitlement to OASDI benefits or Supplemental Security Income (SSI) payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
HA–4631–PDF/paper version	53,200	1	10	8,867	* $10.95	** 24	*** $330,110
Electronic Records Express Submissions	136,800	1	10	22,800	* $25.72		*** $586,416
Totals	190,000			31,667			*** $916,526

* We based these figures on average DI hourly wages based on SSA's current FY 2020 SSI data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*) and on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_stru.htm*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. *Request for Reconsideration—Disability Cessation—20 CFR 404.909, 404.1597(b), 416.995, & 416.1409—0960–0349.* When SSA determines that claimants' disabilities medically improved; ceased; or are no longer sufficiently disabling, these claimants may ask SSA to reconsider that determination. SSA uses Form SSA–789 to arrange for a hearing or to prepare a decision based on the evidence of record. Specifically, claimants or their representatives use Form SSA–789 to: (1) Ask SSA to reconsider a determination; (2) indicate if they wish to appear at a disability hearing;

(3) submit any additional information or evidence for use in the reconsidered determination; and (4) indicate if they will need an interpreter for the hearing. The respondents are disability claimants for Social Security benefits or Supplemental Security Income (SSI) payments who wish to appeal an unfavorable disability cessation determination.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–789	49,000	1	13	10,617	* $10.95	** 24	*** $330,876

* We based this figure on average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. *Waiver of Right to Appear—Disability Hearing—20 CFR 404.913, 404.914, 404.916(b)(5), 416.1413–416.1414, 416.1416(b)(5)—0960–0534.* Claimants for Social Security disability payments or their representatives can use Form SSA–773–U4 to waive their right to appear at a disability hearing. The disability hearing officer uses the signed form as a basis for not holding a hearing, and for preparing a written decision on the claimant's request for disability payments based solely on the evidence of record. The respondents are disability claimants for Social Security benefits or SSI payments, or their representatives, who wish to waive their right to appear at a disability hearing.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–773–U4	200	1	3	10	* $10.95	** 24	*** $986

* We based this figure on average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).

** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. *Prohibition of Payment of SSI Benefits to Fugitive Felons and Parole/Probation Violators—20 CFR 416.708(o)—0960–0617.*

Section 1611(e)(4) of the Act precludes eligibility for SSI payments for certain fugitives and probation or parole violators. Our regulation at 20 CFR 416.708(o) requires individuals applying for or receiving SSI to report to SSA that: (1) They are fleeing to avoid prosecution for a crime; (2) they are fleeing to avoid custody or confinement after conviction of a crime; or (3) they are violating a condition of probation or parole. In addition, due to the implementation of the *Martinez* v. *Astrue* and *Clark* v. *Astrue* cases, we changed our policy to deny eligibility or suspend payments for three fleeing codes. We use the information we

receive to determine eligibility on an initial claim for SSI payments or a redetermination of existing recipients. The collection is mandatory to ensure that an applicant or recipient does not have a warrant for one of the three fleeing codes. If the respondent has a warrant for one of the three fleeing codes, SSA uses this information to deny payments. The respondents are SSI applicants and recipients, or their representative payees, who are reporting their status as a fugitive felon or probation or parole violator.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Fugitive Felon and Parole or Probation Violation screens within the SSI Claims System	1,000	1	1	17	* $25.72	** $437

* We based this figure on the average hourly wage for all occupations in May 2019 as reported by the U.S. Bureau of Labor Statistics (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: March 31, 2021.

Eric Lowman,

Acting Reports Clearance Officer, Office of Legislative Development and Operations, Social Security Administration.

[FR Doc. 2021–06975 Filed 4–5–21; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 670 (Sub-No. 1)]

Notice of Rail Energy Transportation Advisory Committee Meeting

AGENCY: Surface Transportation Board.

ACTION: Notice of Rail Energy Transportation Advisory Committee meeting.

SUMMARY: Notice is hereby given of a meeting of the Rail Energy Transportation Advisory Committee (RETAC), pursuant to the Federal Advisory Committee Act.

DATES: The meeting will be held on Thursday, April 22, 2021, beginning at 1:00 p.m. E.D.T., and is expected to conclude by 4:00 p.m. E.D.T.

ADDRESSES: The meeting will be held virtually via Zoom. See **SUPPLEMENTARY INFORMATION** for registration details.

FOR FURTHER INFORMATION CONTACT: Kristen Nunnally at (202) 245–0312 or *Kristen.Nunnally@stb.gov.* Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: RETAC was formed in 2007 to provide advice and guidance to the Board, and to serve as a forum for discussion of emerging issues related to the transportation of energy resources by rail, including coal, ethanol, and other biofuels. *Establishment of a Rail Energy Transp. Advisory Comm.,* EP 670 (STB served July 17, 2007). The purpose of this meeting is to facilitate discussions regarding issues of interest, including rail service, infrastructure planning and development, and effective coordination among suppliers, rail carriers, and users of energy resources. Agenda items for this meeting may include a rail performance measures review, industry segment updates by RETAC members, and a roundtable discussion.

The meeting, which is open to the public via Zoom, will be conducted in accordance with the Federal Advisory Committee Act, 5 U.S.C. app. 2; Federal Advisory Committee Management regulations, 41 CFR 102–3; the RETAC charter; and Board procedures. Members of the public who wish to attend this meeting must register in advance of the meeting. The registration link is provided on the Board's website at *https://prod.stb.gov/resources/stakeholder-committees/retac/.* Registrations will be accepted on a space-available basis. Further communications about this meeting will be announced through the Board's website at *www.stb.gov.*

Public Comments: Members of the public may submit written comments to RETAC at any time. Comments should be addressed to RETAC, c/o Kristen Nunnally, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001 or *Kristen.Nunnally@stb.gov.*

Authority: 49 U.S.C. 1321, 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: April 1, 2021.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2021–07041 Filed 4–5–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0196]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Bendix Commercial Vehicle Systems, LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of exemption.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant the application of Bendix Commercial Vehicle Systems, LLC (Bendix) for a limited five-year exemption to allow its Bendix Advance Driver Assistance Systems (ADAS) technology to be mounted lower in the windshield on commercial motor vehicles (CMV) than is currently permitted. The Agency has determined that lower placement of the ADAS technology would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety provided by the regulation.

DATES: This exemption is effective April 6, 2021 and expires April 6, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or

comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations. The online Federal document management system is available 24 hours a day, 365 days a year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Bendix's Application for Exemption

Bendix applied for an exemption from 49 CFR 393.60(e)(1) to allow its ADAS technology to be mounted lower in the windshield than is currently permitted by the Agency's regulations to optimize the functionality of the technology system. A copy of the application is included in the docket referenced at the beginning of this notice.

In its application, Bendix states that the functionality of its ADAS technology now includes the ability to provide incident management systems, performance or behavior management systems, lane departure warning systems, forward collision warning or mitigation systems, and active cruise control systems. Bendix notes that it piloted the devices' functionality, and found that there was no obstruction to the driver's normal sightlines to the road ahead, highway signs and signals, or any mirrors.

The technology housing is approximately 142 mm (5.6 inches) tall by 138 mm (5.4 inches) wide, and will be mounted in the approximate center of the windshield with the bottom edge of the housing approximately 204 mm (about 8 inches) below the upper edge of the area swept by the windshield wipers. The technology will be mounted outside the driver's normal sight lines to the road ahead, signs, signals, and mirrors. This location will allow for optimal functionality of the safety features supported by the ADAS technology.

Without the proposed exemption, Bendix states that its clients (1) will not be able to install these devices in an optimal location on the windshield to maximize the effectiveness of the ADAS safety features, and (2) could be fined for violating current regulations. The exemption would apply to all CMVs equipped with Bendix ADAS technology mounted on the windshield. Bendix believes that mounting the ADAS technology system as described will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Comments

FMCSA published a notice of the application in the **Federal Register** on December 01, 2020, and asked for public comment (85 FR 77336). The Agency received one comment from the American Trucking Associations (ATA). The ATA supported the exemption application, noting that the Bendix ADAS technology is designed to provide safety features such as: Forward collision warnings, following distance warnings, and lane departure warnings. ATA argues that ADAS can help thousands of commercial motor vehicle drivers to safely traverse U.S. highways.

FMCSA Decision

FMCSA has evaluated the Bendix exemption application. The ADAS technology system housing is approximately 5.6 inches tall, and is mounted near the top of the center of the windshield, with the bottom of the housing located about 8 inches below the top of the area swept by the windshield wipers. The housing needs to be mounted in this location for optimal functionality of the ADAS system. The desired optimal functionality and the relative size of the system precludes mounting it (1) higher in the windshield, and (2) within 4 inches from the top of the area swept by the windshield wipers to comply with § 393.60(e)(1)(ii)(A).

The Agency believes that granting the temporary exemption to allow placement of the ADAS technology lower than currently permitted by Agency regulations will likely provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the information available, there is no indication that the ADAS technology would obstruct drivers' views of the roadway, highway signs and signals, and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver and any impairment of available sight lines would be minimal; and (3) the mounting location where the bottom of the ADAS technology housing will not exceed 8 inches below the upper edge of the area swept by the windshield wipers outside the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors, will be reasonable and enforceable at roadside. In addition, the Agency believes the use of the ADAS technology by fleets is likely to improve the overall level of safety for the motoring public.

This action is consistent with the following previously issued Agency actions permitting the placement of similarly-sized devices on CMVs outside the driver's sight lines to the road, and highway signs and signals: Netradyne, Inc. 85 FR 82575 (Dec 18, 2020), J.J. Keller & Associates, Inc. 85 FR 75106 (November 24, 2020), Samsara Networks, Inc. 85 FR 68409 (Oct. 28, 2020), Nauto Inc. 85 FR 64220 (Oct. 9, 2020), Lytx Inc. 85 FR 30121 (May 21, 2020), and Navistar Inc. 84 FR 64952 (Nov. 25, 2019). FMCSA is unaware of any evidence showing that installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning April 6, 2021 and ending April 6, 2026. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with Bendix ADAS technology in the

approximate center of the top of the windshield and such that the bottom edge of the technology housing is approximately 8 inches below the upper edge of the area swept by the windshield wipers, outside of the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors. The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating CMVs equipped with Bendix's ADAS technology are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Meera Catherine Joshi,

Acting Administrator.

[FR Doc. 2021–06982 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0003]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 11 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on March 26, 2021. The exemptions expire on March 26, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0003, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On February 23, 2021, FMCSA published a notice announcing receipt of applications from 11 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (86 FR 11046). The public comment period ended on March 25, 2021, and two comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received two comments in this proceeding. Jason Gaddy and an anonymous individual submitted comments in support of the Agency's decision to grant the exemptions.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision, as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the February 23, 2021 **Federal Register** notice (86 FR 11046) and will not be repeated here.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 11 exemption applicants

listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, corneal scarring, prosthesis, and retinal detachment. In most cases, their eye conditions did not develop recently. Eight of the applicants were either born with their vision impairments or have had them since childhood. The three individuals that developed their vision conditions as adults have had them for a range of 9 to 38 years. Although each applicant has one eye that does not meet the vision requirement in § 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging from 3 to 50 years. In the past three years, no drivers were involved in crashes, and no drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in § 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in § 391.41(b)(10) and (b) by a certified medical examiner (ME) who attests that the individual is otherwise physically qualified under § 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the ME at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 11 exemption applications, FMCSA exempts the following drivers from the vision requirement, § 391.41(b)(10), subject to the requirements cited above:

Antonio R. Barros (NY)
Robert D. Boudreau (AZ)
Doris J. Goldsmith (KY)
Todd C. Kraese (IN)
Kathy A. Mason (TX)
Luke A. Perry (VT)
Percy C. Robinson (AL)
Harvinder S. Sahota (CA)
Michael J. Wells (NC)
Dennis C. Welpe (TX)
Kevin D. White (TX)

In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–07079 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0013]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 17 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

DATES: Comments must be received on or before May 6, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2021–0013 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2021–0013, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical

Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2021–0013), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/docket?D=FMCSA–2021–0013.* Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2021–0013, in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 17 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, ''Qualification of Drivers; Application for Exemptions; National Association of the Deaf,'' (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

III. Qualifications of Applicants

Timothy Allen

Mr. Allen, 36, holds a class E license on Louisiana.

David Blough

Mr. Blough, 59, holds an operator's license in Indiana.

Adrian Crutchfield

Mr. Crutchfield, 39, holds a class F license in Missouri.

Frederick Fleetwood

Mr. Fleetwood, 48, holds a class C license in North Carolina.

Hunter Flower

Mr. Flower, 19, holds an operator's license in Michigan.

Christopher Gilmore

Mr. Gilmore, 36, holds a class C license in Texas.

Jeffrey Haley

Mr. Haley, 54, holds a class A license in Minnesota.

Jorge Hernandez

Mr. Hernandez, 31, holds a class C license in Texas.

Kelvin Jarman

Mr. Jarman, 64, holds a class B license in Illinois.

Elizabeth Keyes

Ms. Keyes, 55, holds a class D license in Minnesota.

Ted McCracken

Mr. McCracken, 57, holds a class C license in Oregon.

Mitchell Moers

Mr. Moers, 57, holds a class E license in Florida.

Christopher Ramaza-Cruz

Mr. Ramaza-Cruz, 26, holds a class D license in Connecticut.

Nico Ruiz

Mr. Ruiz, 29, holds a class C license in California.

Thomas Sitzman

Mr. Sitzman, 68, holds a class B license in Ohio.

Susana Valenzuela

Ms. Valenzuela, 28, holds a class C license in California.

Michael Woodberry

Mr. Woodberry, 54, holds a class D license in New Jersey.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–07078 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0121; FMCSA–2014–0103; FMCSA–2014–0105; FMCSA–2014–0106; FMCSA–2014–0107; FMCSA–2014–0385; FMCSA–2015–0327; FMCSA–2015–0329; FMCSA–2016–0002; FMCSA–2018–0137]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 15 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions are applicable on April 21, 2021. The exemptions expire on April 21, 2023. Comments must be received on or before May 6, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0121, Docket No. FMCSA–2014–0103, Docket No. FMCSA–2014–0105, Docket No. FMCSA–2014–0106, Docket No. FMCSA–2014–0107, Docket No. FMCSA–2014–0385, Docket No. FMCSA–2015–0327, Docket No. FMCSA–2015–0329, Docket No. FMCSA–2016–0002, or Docket No. FMCSA–2018–0137 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov/,* insert the docket number, FMCSA–2013–0121, FMCSA–2014–0103, FMCSA–2014–0105, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2014–0385, FMCSA–2015–0327, FMCSA–2015–0329, FMCSA–2016–0002, or FMCSA–2018–0137 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click on the ''Comment'' button. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2013–0121, Docket No. FMCSA–2014–0103, Docket No. FMCSA–2014–0105, Docket No. FMCSA–2014–0106, Docket No. FMCSA–2014–0107, Docket No. FMCSA–2014–0385, Docket No. FMCSA–2015–0327, Docket No. FMCSA–2015–0329, Docket No. FMCSA–2016–0002, or Docket No. FMCSA–2018–0137), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *www.regulations.gov/,* insert the docket number, FMCSA–2013–0121, FMCSA–2014–0103, FMCSA–2014–0105, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2014–0385, FMCSA–2015–0327, FMCSA–2015–0329, FMCSA–2016–0002, or FMCSA–2018–0137 in the keyword box, and click ''Search.''. Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click the ''Comment'' button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2013–0121, FMCSA–2014–0103, FMCSA–2014–0105, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2014–0385, FMCSA–2015–0327, FMCSA–2015–0329, FMCSA–2016–0002, or FMCSA–2018–0137 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The 15 individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 15 applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The 15 drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of April 21, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 15 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Maurice N. Abenchuchan (FL)
Ron Adkins (MO)
Prince K. Bempong (TX)
Keith Byrd (TN)
Perry Cobb (TN)
Kevin Dent (MS)
Nathaniel Godfrey (KY)
Daniel Grossinger (MD)
Dwayne Johnson (IL)
Paul Langlois (OH)
Reynaldo Martinez (TX)
Floyd McClain (OH)
Brian Peek (GA)
Lon E. Smith (MS)
John Turner, III (CO)

The drivers were included in docket number FMCSA–2013–0121, FMCSA–2014–0103, FMCSA–2014–0105, FMCSA–2014–0106, FMCSA–2014–0107, FMCSA–2014–0385, FMCSA–2015–0327, FMCSA–2015–0329, FMCSA–2016–0002, or FMCSA–2018–0137. Their exemptions are applicable as of April 21, 2021, and will expire on April 21, 2023.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 15 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–07075 Filed 4–5–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Recruitment Notice for the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Notice of Open Season for Recruitment of IRS Taxpayer Advocacy Panel (TAP) Members.

DATES: April 5, 2021 through May 14, 2021.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at 214–413–6523 (not a toll-free call).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of the Treasury and the Internal Revenue Service (IRS) are inviting individuals to help improve the nation's tax agency by applying to be members of the Taxpayer Advocacy Panel (TAP). The mission of the TAP is to listen to taxpayers, identify issues that affect taxpayers, and make suggestions for improving IRS service and customer satisfaction. The TAP serves as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue, and the National Taxpayer Advocate. TAP members will participate in subcommittees that channel their feedback to the IRS through the Panel's parent committee.

The IRS is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 200 to 300 hours a year, and a desire to help improve IRS customer service. As a federal advisory committee, TAP is required to have a fairly balanced membership in terms of the points of view represented. Thus, TAP membership represents a cross-section of the taxpaying public with at least one member from each state, the District of Columbia and Puerto Rico, in addition to one member representing international taxpayers. For application purposes, ''international taxpayers'' are defined broadly to include U.S. citizens working, living, or doing business abroad or in a U.S. territory. Potential candidates must be U.S. citizens, not a current employee of any Bureau of the Treasury Department or have worked for any Bureau of the Treasury Department within the three years of December 1 of the current year and must pass a federal tax compliance check and a Federal Bureau of Investigation criminal background investigation. Applicants who practice before the IRS must be in good standing with the IRS (meaning not currently under suspension or disbarment). Federally-registered lobbyists cannot be members of the TAP. The IRS is seeking members or alternates in the following locations Alabama, Arkansas, California, Connecticut, District of Columbia, Delaware, Florida, Georgia, Hawaii, Idaho, International, Kentucky, Massachusetts, Michigan, Missouri, Minnesota, Michigan, North Dakota, Nebraska, New Hampshire, New Mexico, New York, Nevada, Oklahoma, Ohio, Oregon, Pennsylvania, Rhode Island Tennessee, Texas Vermont, Wisconsin, West Virginia, Wyoming. TAP members are a diverse group of citizens who represent the interests of taxpayers, from their respective geographic locations as well as taxpayers overall. Members provide feedback from a taxpayer's perspective on ways to improve IRS customer service and administration of the federal tax system, by identifying grassroots taxpayer issues. Members should have good communication skills and be able to speak to taxpayers about TAP and its activities, while clearly distinguishing between TAP positions and their personal viewpoints.

Interested applicants should visit the TAP website at *www.improveirs.org* for more information about TAP. Applications may be submitted online at *www.usajobs.gov.* For questions about TAP membership, call the TAP toll-free number, 1–888–912–1227 and select prompt 5. Callers who are outside of the U.S. should call 214–413–6523 (not a toll-free call).

The opening date for submitting applications is April 5, 2021 and the deadline for submitting applications is May 14, 2021. Interviews will be held. The Department of the Treasury will review the recommended candidates and make final selections. New TAP members will serve a three-year term starting in December 2021. (*Note:* highly-ranked applicants not selected as members may be placed on a roster of alternates who will be eligible to fill future vacancies that may occur on the Panel.)

Questions regarding the selection of TAP members may be directed to Lisa Billups, Taxpayer Advocacy Panel, Internal Revenue Service, 1111 Constitution Avenue NW, TA:TAP Room 1509, Washington, DC 20224, or 214–413–6523 (not a toll-free call).

Dated: March 31, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–06998 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, May 11, 2021.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Lines Project Committee will be held Tuesday, May 11, 2021 at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07059 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. Due to a processing error, we will not be able to meet the 15-calendar notice threshold, but this meeting will still be open. This meeting will still be held via teleconference.

DATES: The meeting will be held Wednesday, May 12, 2021.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory

Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, May 12, 2021, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07062 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. Due to a processing error, we will not be able to meet the 15-calendar notice threshold, but this meeting will still be open. This meeting will still be held via teleconference.

DATES: The meeting will be held Tuesday, May 11, 2021.

FOR FURTHER INFORMATION CONTACT: Conchata Holloway at 1–888–912–1227 or 336–690–6217.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Tuesday, May 11, 2021, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Conchata Holloway. For more information please contact Cedric Jeans at 1–888–912–1227 or 336–690–6217, or write TAP Office, 4905 Koger Boulevard, Greensboro, NC 27407–2734 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07060 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 13, 2021.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Improvements Project Committee will be held Thursday, May 13, 2021, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07057 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, May 27, 2021, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office 3651 S IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07056 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Internal Revenue Service Advisory Council; Meeting

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Notice of meeting.

SUMMARY: The Internal Revenue Service Advisory Council will hold a public meeting.

DATES: The meeting will be held Wednesday, April 21, 2021.

ADDRESSES: The meeting will be held by teleconference.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Burch, Office of National Public Liaison, at 202–317–4219 or send an email to *PublicLiaison@irs.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a public meeting of the Internal Revenue Service Advisory Council (IRSAC) will be held on Wednesday, April 21, 2021, to discuss topics that may be recommended for inclusion in a future report of the Council. The meeting will begin at 3:00 p.m. EDT and will continue for as long as necessary to complete the discussion but not beyond 4:00 p.m. EDT.

The meeting will be held by conference call. To register and for call-in instructions, members of the public may contact Ms. Stephanie Burch at 202–317–4219 or send an email to *PublicLiaison@irs.gov.* Attendees are encouraged to call in at least 5–10 minutes before the meeting begins.

Time permitting, after the close of this discussion by IRSAC members, interested persons may make oral statements germane to the Council's work. Persons wishing to make oral statements should contact Ms. Stephanie Burch at *PublicLiaison@irs.gov* and include the written text or outline of comments they propose to make orally. Such comments will be limited to five minutes in length. In addition, any interested person may file a written statement for consideration by the IRSAC by sending it to *PublicLiaison@irs.gov.*

Dated: March 31, 2021.

John A. Lipold,

Designated Federal Officer, Internal Revenue Service Advisory Council.

[FR Doc. 2021–07005 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 13, 2021.

FOR FURTHER INFORMATION CONTACT: Fred Smith at 1–888–912–1227 or (202) 317–3087.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Thursday, May 13, 2021 at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07058 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5884–A

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 general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning employee retention credit for employers affected by qualified disaster.

DATES: Written comments should be received on or before June 7, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

Requests for additional information or copies of the form should be directed to Sara Covington, at (737) 800–6149 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employee Retention Credit for Employers Affected by Qualified Disasters.

OMB Number: 1545–1978.

Regulation Project Number: Form 5884–A.

Abstract: Form 5884–A is used to figure certain credits for disaster area employers. These credits typically include employee retention credits for eligible employers who conducted an active trade or business in certain disaster areas. The credit is equal to 40 percent of qualified wages for each eligible employee (up to a maximum of $6,000 in qualified wages per employee).

Current Actions: The Form is being revised to reflect the new 2020 qualified disaster employee retention credit. Changes to the burden estimates are due to the removal and revising of lines on the form. The instructions will direct filers needing to report these credits as to which revision of the form to use.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and farms.

Estimated Number of Respondents: 250,000.

Estimated Time Per Respondent: 2.55 hours.

Estimated Total Annual Burden Hours: 637,500.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 31, 2021.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2021–07004 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, April 22, 2021.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, April 22, 2021, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office 3651 S IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07055 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, May 11, 2021.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Lines Project Committee will be held Tuesday, May 11, 2021 at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: April 1, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–07061 Filed 4–5–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Interest Rate Paid on Cash Deposited To Secure U.S. Immigration and Customs Enforcement Immigration Bonds

AGENCY: Departmental Offices, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning April 1, 2021, and ending on June 30, 2021, the U.S. Immigration and Customs Enforcement Immigration Bond interest rate is .05 per centum per annum.

DATES: Rates are applicable April 1, 2021 to June 30, 2021.

ADDRESSES: Comments or inquiries may be mailed to Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106–1328.

You can download this notice at the following internet addresses: *http://www.treasury.gov* or *http://www.federalregister.gov.*

FOR FURTHER INFORMATION CONTACT: Ryan Hanna, Manager, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Service, Parkersburg, West Virginia 26106–1328, (304) 480–5120; Will Walcutt, Supervisor, Funds Management Branch, Funds Management Division, Fiscal Accounting, Bureau of the Fiscal Services, Parkersburg, West Virginia 26106–1328, (304) 480–5117.

SUPPLEMENTARY INFORMATION: Federal law requires that interest payments on cash deposited to secure immigration bonds shall be ''at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.'' 8 U.S.C. 1363(a). Related Federal regulations state that ''Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero.'' 8 CFR 293.2. Treasury has determined that interest on the bonds will vary quarterly and will accrue during each calendar quarter at a rate equal to the lesser of the average of the bond equivalent rates on 91-day Treasury bills auctioned during the preceding calendar quarter, or 3 per centum per annum, but in no case less than zero. [FR Doc. 2015–18545] In addition to this Notice, Treasury posts the current quarterly rate in Table 2b—Interest Rates for Specific Legislation on the TreasuryDirect website.

The Deputy Assistant Secretary for Public Finance, Gary Grippo, having reviewed and approved this document, is delegating the authority to electronically sign this document to Heidi Cohen, Federal Register Liaison for the Department, for purposes of publication in the **Federal Register**.

Heidi Cohen,

Federal Register Liaison.

[FR Doc. 2021–07067 Filed 4–5–21; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA), Veterans Health Administration.

ACTION: Notice of a modified system of records.

SUMMARY: As required by the Privacy Act of 1974 notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records entitled, ''Employee Incentive Scholarship Program-VA'' (110VA10) as set forth in the **Federal Register**. VA is amending the system of records by revising the System Location; System Manager; Routine Uses of Records Maintained in the System and Policies; Policies and Practices for Retrievability of Records; Policies and Practices for Retention and Disposal of Records; Administrative, Technical, and Physical Safeguards; Record Access Procedure; and Notification Procedure. VA is republishing the system notice in its entirety.

DATES: Comments on the amendment of this system of records must be received no later than May 6, 2021. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the amended system will become effective May 6, 2021.

ADDRESSES: Comments may be submitted through *www.Regulations.gov* or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005R1A), Washington, DC 20420. Comments should indicate that they are submitted in response to ''Employee Incentive Scholarship Program-VA (110VA10)''. Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; telephone (704) 245–2492 (Note: not a toll-free number).

SUPPLEMENTARY INFORMATION: The System Location is being amended to change Health Care Staff Development and Retention Office (HCSDRO/10A2D) 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112 to Scholarships and Clinical Education (SCE/106A) 1250 Poydras Street, Suite 1000, New Orleans, LA 70113; the Austin Automation Center is being changed to the Austin Information Technology Center (AITC). This section will include the Little Rock Data Center, 2200 Fort Roots Drive, North Little Rock, Arkansas 72114, Southeast Louisiana Veterans Healthcare System Storage Warehouse, 4301 Poche Court West, New Orleans, Louisiana 70129.

The System Manager, Record Access Procedure, and Notification Procedure are being amended to replace Director, Health Care Staff Development and Retention Office (HCSDRO/10A2D) 1555 Poydras Street, Suite 1971, New Orleans, Louisiana 70112 to Nicole Nedd, Director, Scholarships and Clinical Education (SCE/106A) 1250 Poydras Street, Suite 1000, New Orleans, LA 70113.

The Routine Uses of Records Maintained in the System is amending Routine Use #6 to remove General Services Administration (GSA).

Routine Use #11 language is being amended which states that disclosure of the records to the U.S. Department of Justice (DoJ) is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. This routine use will now state that release of the records to DoJ is limited to circumstances where relevant and necessary to the litigation.

Routine Use #15 is being amended by clarifying the language to state, ''VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.''

Routine Use #16 is being added to state, ''VA may disclose information from this system of records to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach. VA needs this routine use for the data breach response and remedial efforts with another Federal agency.''

The Policies and Practices for Retention and Disposal of Records is being amended to replace, ''Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.'' with, Records are maintained according to RCS 10–1; 3075.9. Incentive package records. Records of recruitment, relocation, and retention incentives; Federal Student Loan repayment; and supervisory differentials offered under the Federal Employees Pay Comparability Act. Temporary; destroy 3 years after date of approval, completion of service agreement, or termination of incentive or differential payment, whichever is later, but longer retention is authorized if required for business use. (GRS 2.4 item 090, DAA–GRS–2016–0015–0011).

The Policies and Practices for Retrievability of Records and the Administrative, Technical, and Physical Safeguards are being amended to replace Health Care Staff Development and Retention Office (HCSDRO) with Scholarships and Clinical Education (SCE). This section will include the Little Rock Data Center, 2200 Fort Roots Drive, North Little Rock, Arkansas 72114.

The Report of Intent to Amend a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by the Privacy Act and guidelines issued by OMB, December 12, 2000.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Dominic A. Cussatt, Acting Assistant Secretary of Information and Technology and Chief Information Officer, approved this document on February 24, 2021 for publication.

Dated: April 1, 2021.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

Employee Incentive Scholarship Program-VA (110VA10).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Active records will be maintained at the Scholarships and Clinical Education (SCE/106A), Department of Veterans Affairs (VA), Veterans Health Administration (VHA),1250 Poydras Street, Suite 1000, New Orleans, LA 70113; the Austin Information Technology Center (AITC), Department of Veterans Affairs, 1615 East Woodward Street, Austin, Texas 78772; Little Rock Data Center, 2200 Fort Roots Drive, North Little Rock, Arkansas 72114, Southeast Louisiana Veterans Healthcare System Storage Warehouse, 4301 Poche Court West, New Orleans, Louisiana 70129 and the VA health care facilities and VISN offices where scholarship recipients are employed. Address locations for VA health care facilities are listed in Appendix 1 of the Biennial Publication of Privacy Act Issuances. Complete records will be maintained only at the SCE address.

SYSTEM MANAGER(S):

Nicole Nedd, Director, Scholarships and Clinical Education (SCE/106A), VHA, 1250 Poydras Street, Suite 1000, New Orleans, LA 70113. The telephone number is 504–589–5267. (This is not a toll-free number.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38 U.S.C. 501, 503, 7451, 7452, and 7431–7440.

PURPOSE(S) OF THE SYSTEM:

The records and information may be used for determining and documenting individual applicant eligibility for scholarship awards, calculating the service commitments for scholarship recipients, ensuring program financial accountability, monitoring individual applicant educational progress, monitoring the employment status of scholarship recipients during their periods of obligated service, terminating the employee from the program, and evaluating and reporting program results and effectiveness. The information would be used to determine the financial liability of individuals who breach their Employee Incentive Scholarship Program (EISP) contracts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

VA employees who apply for and are denied or granted educational assistance awards under the provisions of VA EISP in a field leading to appointment or retention in a position listed in 38 U.S.C. 7401.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system may include personal identification information related to the application material, to award processes, to employment, to obligated service, and to requests for waivers or suspensions of obligated service or financial indebtedness to VA such as (1) name, (2) employing facility number, (3) telephone number(s), (4) Social Security number, (5) award amount, (6) obligated service incurred, and (7) name and address of the educational institution; or any amount if indebtedness (accounts receivable) arising from the scholarship and owed to VA. The application for an EISP award includes the applicant's full name, employing facility number, home and work telephone numbers, Social Security number, job title, current education level, degree sought, description of the academic program covered by the scholarship, the starting and completion dates of the employee's academic program, the name and address of the academic institution, the number of credits in the student's academic program plan and the cost of the education covered by the academic program plan. Records may include memoranda submitted by the employees, calculations for the service obligations, copies of letters and memoranda from employees making the requests and in correspondence to employees and appropriate local program officials delineating the decisions on such requests.

RECORD SOURCE CATEGORIES:

Information contained in the records is obtained from the individual, references given in application material, educational institutions, VA medical facilities, the VA AITC, other Federal agencies, state agencies and consumer reporting agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164, *i.e.,* individually identifiable health information, and 38 U.S.C. 7332, *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia, or infection with the Human Immunodeficiency Virus, that information may not be disclosed under a routine use unless there is also specific statutory authority in 38 U.S.C. 7332 and regulatory authority in 45 CFR parts 160 and 164 permitting disclosure.

1. Disclosure of any information in this system that is necessary to verify authenticity and completeness of the application may be made to educational institutions and other relevant organizations or individuals.

2. Disclosure of any information in this system may be made to a Federal agency in order to determine if an applicant has an obligation for service under another Federal program, thus rendering the applicant ineligible for a VA Employee Incentive Scholarship Program Award.

3. Disclosure of an information in this system may be made to the local supervisory officials and program coordinators to ensure that individual data in the system of records is up to date and that award recipients are in compliance with the terms of the scholarship program contract.

4. Any information in this system may be used to evaluate and report program results and effectiveness to appropriate officials including members of Congress on a routine and ad hoc basis.

5. Disclosure may be made to a Congressional office from the record or an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. Disclosure may be made to National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44, Chapter 29, of the U.S.C.

7. Disclosure of information to the Federal Labor Relations Authority (FLRA) (including its General Counsel) when requested in connection with the investigation and resolution of allegations of unfair labor practices, in connection with matters before the Federal Service Impasses Panel, and to investigate representation petitions and conduct or supervise representation elections.

8. Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

9. Disclosure may be made to officials of the Merit Systems Protection Board (MSPB), or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of

alleged or possible prohibited personnel practices, and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. VA may disclose information from this system to the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or other functions of the Commission as authorized by law or regulation.

11. VA may disclose information in this system of records to the DoJ, either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to the DoJ is limited to circumstances where relevant and necessary to the litigation. VA may disclose records in this system of records in legal proceedings before a court or administrative body after determining that release of the records to the DoJ is limited to circumstances where relevant and necessary to the litigation.

12. Disclosure may be made to individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to perform such services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor, subcontractor, public or private agency, or other entity or individual with whom VA has an agreement or contract to perform the services of the contract or agreement.

13. VA may disclose information in this system, except the names and home addresses of veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. VA may also disclose the names and addresses of veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

14. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

15. VA may disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

16. VA may disclose information from this system of records to another Federal agency or Federal entity, when VA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach. VA needs this routine use for the data breach response and remedial efforts with another Federal agency.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(2), VA may disclose records from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on paper (*i.e.,* computer printouts), and electronic media.

POLICIES AND PRACTICES FOR RETRIEVABILITY OF RECORDS:

Records are retrieved by use of the award number or an equivalent participant account number assigned by SCE, Social Security number and the name of the individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are maintained according to RCS 10–1; 3075.9. Incentive package records. Records of recruitment, relocation, and retention incentives; Federal Student Loan repayment; and supervisory differentials offered under the Federal Employees Pay Comparability Act.

Temporary; destroy 3 years after date of approval, completion of service agreement, or termination of incentive or differential payment, whichever is later, but longer retention is authorized if required for business use. (GRS 2.4 item 090, DAA–GRS–2016–0015–0011)

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to the basic file in SCE is restricted to authorized VA employees and vendors. Access to the office spaces where electronic media is maintained within SCE is further restricted to specifically authorized employees and is protected by contracted building security services. Records (typically computer printouts) at SCE will be kept in locked files and made available only to authorized personnel on a need-to-know basis. During non-working hours the file is locked, and the building is protected by contracted building security services. Records stored on electronic media are maintained on a VA-approved and managed, password protected, secure local area network (LAN) located within SCE office spaces, the Little Rock Data Center, 2200 Fort Roots Drive, North Little Rock, Arkansas 72114, and safeguarded as described above. Records stored on electronic media at Veterans Integrated Service Network (VISN) Offices, VA health care facilities, and the AITC in Austin, TX are provided equivalent safeguards subject to local policies mandating protection of information subject to Federal safeguards.

RECORD ACCESS PROCEDURE:

Individuals seeking information regarding access to and contesting of VA records in this system may write, call, or visit the Director, Scholarships and Clinical Education (SCE/106A), VHA, 1250 Poydras Street, Suite 1000, New Orleans, LA 70113. The telephone number is 504–589–5267. (This is not a toll-free number.)

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures).

NOTIFICATION PROCEDURE:

Any individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or

wants to determine the contents of such record should submit a written request or apply in person to the Director, Scholarships and Clinical Education (SCE/106A), VHA, 1250 Poydras Street, Suite 1000, New Orleans, LA 70113.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

Last full publication provided in 81 FR 45597 dated July 14, 2016.

[FR Doc. 2021–07023 Filed 4–5–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0821]

Agency Information Collection Activity: Agency Information Collection Activity Under OMB Review: VA Form 26–0967, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, and VA Form 26–0967a, Specially Adaptive Housing Assistive Technology Grants Criteria and Responses

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 7, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0821'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0821'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Agency Information Collection Activity under OMB Review: VA Form 26–0967, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, and VA Form 26–0967a, Specially Adaptive Housing Assistive Technology Grants Criteria and Responses.

OMB Control Number: 2900–0821.

Type of Review: Extension of a currently approved collection.

Abstract: The proposed regulations would require applicants to submit VA Form 26–0967, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. These regulations would also require applicants to provide statements addressing six scoring criteria for grant awards as part of their application. The information will be used by Loan Guaranty personnel in deciding whether an applicant meets the requirements and satisfies the scoring criteria for award of an SAH Assistive Technology grant under 38 U.S.C. 2108. 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.

Affected Public: Individuals and households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 2 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 20.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–06988 Filed 4–5–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0712]

Agency Information Collection Activity: Survey of Healthcare Experiences of Patients (SHEP)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 7, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Janel Keyes, Office of Regulations, Appeals, and Policy (10BRAP), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Janel.Keyes@va.gov.* Please refer to ''OMB Control No. 2900–0712'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0712'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Survey of Healthcare Experiences of Patients (SHEP).

OMB Control Number: 2900–0712.

Type of Review: Reinstatement of a previously approved collection.

Abstract: Survey of Health Experience of Patients (SHEP) has been developed to measure patient satisfaction in the Veterans Health Administration and has been in use in its present form since 2008. The mission of VHA is to provide high quality medical care to eligible veterans. Executive Order 12862, dated September 11, 1993, called for the establishment and implementation of customer service standards, and for agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with current services.'' Further emphasized by the Executive Order 13571 on ''Streamlining Service Delivery and Improving Customer Service,'' issued on April 27, 2011, VA must work continuously to ensure that their programs are effective and meet their customers' needs. To this end, VA is always seeking new and innovative ways to ensure the highest levels of customer satisfaction. The following is a list of the current SHEP surveys.

10–1465–1: SHEP Inpatient Long Form
10–1465–2: SHEP Inpatient Short Form
10–1465–3: Ambulatory Care Long Form
10–1465–4: Ambulatory Care Short Form
10–1465–5: Patient Centered Medical Home Short Form
10–1465–6: Patient Centered Medical Home Long Form
10–1465–7: Home Health Care Survey Long Form
10–1465–8: In-Center Hemodialysis Care Long Form
10–1465–9: Specialty Care Survey
10–1465–10: VA Community Care Survey

Affected Public: Individuals and households.

Estimated Annual Burden: Total Hours = 176,640.

10–1465–1—160 hours.
10–1465–2—18,000 hours.
10–1465–3—160 hours.
10–1465–4—120 hours.
10–1465–5—48,000 hours.
10–1465–6—8,000 hours.
10–1465–7—80 hours.
10–1465–8—120 hours.
10–1465–9—30,000 hours.
10–1465–10—72,000 hours.

Estimated Average Burden per Respondent:

10–1465–1—20 minutes.
10–1465–2—15 minutes.
10–1465–3—20 minutes.
10–1465–4—15 minutes.
10–1465–5—10 minutes.
10–1465–6—20 minutes.
10–1465–7—10 minutes.
10–1465–8—15 minutes.
10–1465–9—15 minutes.
10–1465–10—15 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: Total Number of Respondents = 794,400.

10–1465–1—480.
10–1465–2—72,000.
10–1465–3—480.
10–1465–4—480.
10–1465–5—288,000.
10–1465–6—24,000.
10–1465–7—480.
10–1465–8—480.
10–1465–9—120,000.
10–1465–10—288,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–07036 Filed 4–5–21; 8:45 am]

BILLING CODE 8320–01–P

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Federal Register

Vol. 86, No. 64

Tuesday, April 6, 2021

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FEDERAL REGISTER PAGES AND DATE, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

81.....17762
141.....17571
271.....17572

44 CFR

64.....17078

46 CFR

Proposed Rules:
71.....17090
115.....17090
176.....17090

47 CFR

0.....17726
25.....17311
54.....17079
64.....17726

Proposed Rules:
0.....17575
73.....17110, 17348

48 CFR

3001.....17312
3002.....17312
3003.....17312
3004.....17312
3005.....17312
3006.....17312
3007.....17312
3009.....17312
3010.....17312
3011.....17312
3012.....17312
3013.....17312
3015.....17312
3016.....17312
3017.....17312
3018.....17312
3019.....17312
3022.....17312
3023.....17312
3024.....17312
3025.....17312
3027.....17312
3028.....17312
3030.....17312
3031.....17312
3032.....17312
3033.....17312
3034.....17312
3035.....17312
3036.....17312
3037.....17312
3042.....17312
3046.....17312
3047.....17312
3052.....17312
3053.....17312

49 CFR

1.....17292
5.....17292
7.....17292
106.....17292
389.....17292
553.....17292
601.....17292
1201.....17548
1333.....17735

50 CFR

100.....17713
217.....17458
622.....17080, 17318, 17751
648.....17081, 17551
679.....17320, 17752

Proposed Rules:
648.....17764

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List March 31, 2021

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