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Proclamation 10204 of May 6, 2021

The President

Military Spouse Appreciation Day, 2021

By the President of the United States of America

**A Proclamation**

As the members of our Armed Forces safeguard our Nation at home and around the world, they depend on the people they love for strength, comfort, joy, and stability. Military spouses may not always wear a uniform, but they serve and sacrifice alongside their service members and keep our military strong. On Military Spouse Appreciation Day, we recognize and thank the military spouses who serve our Nation and are critical to our national security.

Military families are proud of the lives they build. Spouses understand that loving a service member means facing the challenges that can accompany their service: from leaving friends behind to changing jobs again; making parenting decisions alone to losing sleep at night; deployments to homecomings to more deployments. Those challenges have been magnified by the COVID-19 pandemic, which has led to lost income, fewer childcare options, and extended deployments. Still, military spouses have done what they do best: adapt, persevere, and keep going.

When someone you love is hurting, you hurt with them. When your spouse is at home, trying to make ends meet, or is torn between taking care of your children and keeping a job, your heart breaks too. Service members cannot focus on their mission if their families do not have what they need to thrive at home, and we cannot expect to retain even the most dedicated service members if they are forced to choose between their love of country and the hopes and dreams they have for their families. That is why supporting military spouses is critical to keeping our Nation safe.

On Military Spouse Appreciation Day, we recognize the importance of empowering spouses and ensuring they have the necessary tools and resources to thrive in all facets of their lives, including in the community, in the workforce, and at home.

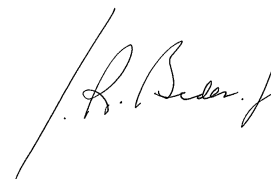
My Administration is dedicated to supporting our Nation's military spouses. Through the First Lady's work with *Joining Forces*, the White House has committed to supporting military and veteran families, caregivers, and survivors through economic and entrepreneurship opportunities, support for military child education, and health and wellbeing resources. Launched in 2011 as part of *Joining Forces*, the Department of Defense's Military Spouse Employment Partnership now includes more than 500 companies, nonprofit organizations, and Federal agencies that are committed to recruiting, hiring, promoting, and retaining military spouses. Since its inception, the Partnership has supported more than 180,000 military spouses. *Joining Forces* will continue to convene and collaborate with Federal agency partners, nonprofit organizations, corporate stakeholders, and service providers to develop comprehensive, meaningful, and long-term solutions to address the holistic well-being of military and veteran families, caregivers, and survivors. And, *Joining Forces* calls upon on all Americans to support and harness the special skills, strengths, and experiences of military spouses.

Today, we pause to salute the women and men who do so much to support our troops, invest in our communities, and sacrifice for our country. Their

strength and resilience are essential to the recruitment, retention, and readiness of our fighting forces and, indeed, to the strength of our Nation.

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 May 7, 2021, as Military Spouse Appreciation Day. I call upon the people of the United States to honor military spouses with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of May, 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.





# Rules and Regulations

Federal Register

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

The Code of Federal Regulations is sold by the Superintendent of Documents.

## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2611

RIN 3209-AA61

#### Removal of U.S. Office of Government Ethics Guidance Documents Regulations

**AGENCY:** Office of Government Ethics.

**ACTION:** Final rule.

**SUMMARY:** Pursuant to Executive Order 13992, the U.S. Office of Government Ethics (OGE) is removing its regulations that detail the processes for the issuance of, modifications to, and petitions regarding guidance documents, as defined by Executive Order 13891.

**DATES:** This final rule is effective May 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** Patrick J. Lightfoot, Assistant Counsel, or Margaret Dylus-Yukins, Assistant Counsel; Telephone: 202-482-9300.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

As required by Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents” (October 9, 2019), OGE issued 5 CFR part 2611 on August 20, 2020. 85 FR 51301 (August 20, 2020). 5 CFR part 2611 set forth processes and procedures for OGE’s issuance of guidance documents as defined by Executive Order 13891. Also pursuant to Executive Order 13891, OGE established and maintained a Guidance Portal on its website, which provided links to all guidance documents in effect and issued by OGE. 85 FR 45638 (July 29, 2020). Notably, all of OGE’s guidance documents are already posted elsewhere on the OGE website.

Executive Order 13992, “Revocation of Certain Executive Orders Concerning Federal Regulation” (January 20, 2021), revoked Executive Order 13891 and five other executive orders. Executive Order 13992 also directed agencies to

“promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing” the revoked executive orders.

In accordance with Executive Order 13992, OGE is removing 5 CFR part 2611 in its entirety. OGE will retain a copy of the regulation. The **Federal Register** issuance at 85 FR 51301, which includes the full text of the regulation, will remain on OGE’s website. OGE will also remove the Guidance Portal from its website; however, the documents from the Guidance Portal will continue to be available elsewhere on OGE’s website.

##### II. Matters of Regulatory Procedure

###### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b)(3)(A), as Director of the Office of Government Ethics, the notice and comment procedures are being waived because these amendments concern matters of agency organization, procedure and practice.

###### *Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require 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 5, subchapter II), this final rule would 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.

###### *Executive Order 13563 and Executive Order 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 rulemaking, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in Executive Orders 12866 and 13563. The rule is not a significant regulatory action for the purposes of Executive Order 12866.

###### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this 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 2611

Administrative practice and procedure, Guidance documents, Significant guidance documents.

Approved: May 6, 2021.

##### Emory Rounds,

Director, U.S. Office of Government Ethics.

For the reasons set forth in the preamble, and under the authority of 5 U.S.C. app. 101–505 (Ethics in Government Act of 1978), the U.S. Office of Government Ethics amends 5 CFR chapter XVI by removing part 2611.

[FR Doc. 2021–09954 Filed 5–10–21; 8:45 am]

**BILLING CODE 6345–03–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 77

#### Federal Aviation Administration Policy: Review of Solar Energy System Projects on Federally-Obligated Airports

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notificaton of policy.

**SUMMARY:** This document establishes FAA policy for proposals by sponsors of federally-obligated airports to construct solar energy systems on airport property. FAA is publishing this policy because it is in the public interest to enhance safety by analyzing ocular impact of proposed solar energy systems on airport traffic control tower personnel. The policy applies to proposed on-airport solar energy systems at federally-obligated towered

airports. This policy replaces the Interim Policy published on October 23, 2013.

**DATES:** The effective date of this policy is May 11, 2021.

**ADDRESSES:** You can obtain an electronic copy of this Policy and all other documents in this docket using the internet by:

- (1) Searching the Federal eRulemaking portal (<http://www.faa.gov/regulations/search>);
- (2) Visiting FAA's Regulations and Policies web page at ([http://www.faa.gov/regulations\\_policies](http://www.faa.gov/regulations_policies)); or
- (3) Accessing the Government Printing Office's web page at (<http://www.gpoaccess.gov>).

You can also obtain a copy by sending a request to FAA, Airport Planning and Environmental Division, 800 Independence Ave. SW, Washington, DC 20591, or by calling (202) 267-3263. Make sure to identify the docket number, document number or amendment number of this proceeding.

**FOR FURTHER POLICY INFORMATION**

**CONTACT:** Mike Hines, Manager, Airport Planning and Environmental Division, APP-400, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591, telephone (202) 267-8772; email: [Michael.Hines@faa.gov](mailto:Michael.Hines@faa.gov).

**SUPPLEMENTARY INFORMATION:** Authority for the Policy: This policy is published under the authority described in Title 49 of the United States Code, subtitle VII, part B, Chapter 471, Section 47122(a).

**Background**

In October 2013, FAA issued an interim policy for proposals by sponsors of federally-obligated airports to construct solar energy systems on airport property. 78 FR 63276, October 23, 2013.

There is continued interest in installing solar photovoltaic (PV) and solar hot water (SHW) systems on airports. While solar PV or SHW systems (henceforth referred to as solar energy systems) are designed to absorb solar energy to maximize electrical energy production or the heating of water, in certain situations the glass surfaces of the solar energy systems can reflect sunlight and produce glint (a momentary flash of bright light) and glare (a continuous source of bright light). FAA has learned that glint and glare from solar energy systems could result in an ocular impact to airport traffic control tower (ATCT) personnel working in the tower cab, and compromise the safety of the air transportation system. FAA is issuing

this policy pursuant to its authority under title 14 of the Code of Federal Regulations (CFR), part 77, with the intent to ensure the safety of the development of solar energy systems on airport property by eliminating the potential for ocular impact to the ATCT cab from these systems. FAA established a cross-organizational working group in 2012 to establish a standard for measuring glint and glare, and clear thresholds for when glint and glare would impact aviation safety. This resulted in FAA's 2013 Interim Policy on Review of Solar Energy Systems at Federally-Obligated Airports, referenced above.

The Interim Policy required federally-obligated airports to conduct an ocular analysis of potential glint and glare effects to pilots on final approach and ATCT cabs before construction begins. The policy also included a standard for measuring ocular impact and a recommended tool for measuring ocular impact.

FAA received 20 comments on the Interim Policy. The majority of comments were from persons who are involved with the solar energy industry. FAA also received comments from the Airport Consultants Council (ACC) on behalf of its membership. The comments were largely focused on requirements in the interim policy that FAA is not carrying forward to this updated policy.

**Developments Since Interim Policy**

The Interim Policy stated that "FAA expects to continue to update these policies and procedures as part of an iterative process as new information and technologies become available." This is in keeping with FAA's obligation under 49 U.S.C. 47122(a) to continually incorporate new information on safety considerations, and update policies and procedures as appropriate. In keeping with these statements, FAA reviewed the comments received on the Interim Policy and continued to collect additional information on ocular impacts of proposed solar energy systems.

Initially, FAA believed that solar energy systems could introduce a novel glint and glare effect to pilots on final approach. FAA has subsequently concluded that in most cases, the glint and glare from solar energy systems to pilots on final approach is similar to glint and glare pilots routinely experience from water bodies, glass-façade buildings, parking lots, and similar features. However, FAA has continued to receive reports of potential glint and glare from on-airport solar energy systems on personnel working in

ATCT cabs. Therefore, FAA has determined the scope of agency policy should be focused on the impact of on-airport solar energy systems to federally-obligated towered airports, specifically the airport's ATCT cab.

The policy in this document updates and replaces the previous policy by encouraging airport sponsors to conduct an ocular analysis of potential impacts to ATCT cabs prior to submittal of a Notice of Proposed Construction or Alteration Form 7460-1 (hereinafter Form 7460-1). Airport sponsors are no longer required to submit the results of an ocular analysis to FAA. Instead, to demonstrate compliance with 14 CFR 77.5(c), FAA will rely on the submittal of Form 7460-1 in which the sponsor confirms that it has analyzed the potential for glint and glare and determined there is no potential for ocular impact to the airport's ATCT cab. This process will enable FAA to evaluate the solar energy system project, with assurance that the system will not impact the ATCT cab.

FAA is also withdrawing the recommended tool for ocular impact, the Solar Glare Hazard Analysis Tool (SGHAT). The Interim Policy mandated the use of SGHAT, developed independently by Sandia National Laboratories. The tool is no longer available to all users at no cost. There are several glint/glare analysis tools available to airport sponsors on the open market, but FAA is not requiring or endorsing a specific tool for assessing ocular impact. In addition, FAA acknowledges that in some cases a tool may not be required to support a sponsor's statement that a proposed solar energy system will not impact an ATCT cab. The primary example is a proposed on-airport solar energy system that is not visible from an ATCT cab because it is blocked by another structure.

This policy does not apply to:

1. Solar energy systems on airports that do not have an ATCT,
2. Airports that are not federally-obligated, or
3. Solar energy systems not located on airport property.

Though this policy does not apply to proponents of solar energy systems located off airport property, they are encouraged to consider ocular impact for proposed systems in proximity to airports with ATCTs. In these cases, solar energy system proponents should coordinate with the local airport sponsor.

### FAA Policy: Review of Solar Energy System Projects on Federally-Obligated Airports

The following sets forth FAA's policy for analyzing ocular impact and the obligations of an Airport Sponsor when a solar energy system is proposed for development on a federally-obligated airport with an ATCT.

It is in the public interest to enhance safety by analyzing ocular impact of proposed solar energy systems at federally-obligated towered airports. The policy applies to any proposed solar energy system on a federally-obligated towered airport.

#### Standard for Analyzing Ocular Impact

For federally-obligated towered airports, the airport sponsor will revise an Airport Layout Plan to depict proposed solar installations of any size that are not co-located with an existing structure and require a new footprint (as required by 49 U.S.C. 47107(a)(16)(A)). The airport sponsor will also file a Notice of Proposed Construction or Alteration Form 7460-1 (as required by 14 CFR 77.9). To demonstrate compliance with 14 CFR 77.5(c), FAA will rely on the airport sponsor to include a statement in its completed Form 7460-1 that the proposed solar project will not result in ocular (*i.e.* glint or glare) impacts to the airport's ATCT cab. The airport sponsor is encouraged to conduct an ocular analysis of potential impacts to ATCT cabs prior to the submittal of its Form 7460-1. If the 7460-1 evaluation results in a "no objection" finding, FAA will include the following statement in the aeronautical study determination:

FAA relies on the airport sponsor's statement in the submitted Form 7460-1 that it has proposed a project that will not create ocular (*i.e.*, glint or glare) impacts to personnel in the airport's airport traffic control tower. If impacts to the airport traffic control tower are discovered after construction, the Sponsor must mitigate those impacts at its own expense. The Sponsor remains subject to a compliance action under 14 CFR part 16 for failing to mitigate ocular impacts that interfere with aviation safety.

#### Tools To Assess Ocular Impact

FAA encourages airport sponsors of federally-obligated towered airports to conduct a sufficient analysis to support their assertion that a proposed solar energy system will not result in ocular impacts. There are several tools available on the open market to airport sponsors that can analyze potential glint and glare to an ATCT cab. For proposed systems that will clearly not impact ATCT cabs (*e.g.*, on-airport solar energy

systems that are blocked from the ATCT cab's view by another structure), the use of such tools may not be necessary to support the assertion that a proposed solar energy system will not result in ocular impacts. FAA suggests that airport sponsors with questions about conducting this analysis contact their local FAA Airports District Office (or Regional Office for those Regions without District Offices) during the early stages of a solar energy system siting process. Regional and Airports District Offices are available to provide assistance with this process.

#### Integration of This Policy Statement Into FAA Orders and Publications

FAA will incorporate this policy into applicable FAA Orders and publications, such as Advisory Circulars, as they are updated. The agency will also continually review this policy in the interest of aviation safety. FAA reserves the right to update this policy if the agency collects or receives additional information on glint and glare from on-airport solar energy systems. The FAA will incorporate any updates into applicable FAA Orders and publications.

This policy does not have the force and effect of law and is not meant to bind the public in any way, it is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Issued in Washington, DC.

**Robert John Craven,**

*Director, Airport Planning and Programming.*

[FR Doc. 2021-09862 Filed 5-10-21; 8:45 am]

**BILLING CODE 4910-13-P**

### SECURITIES AND EXCHANGE COMMISSION

#### 17 CFR Parts 232, 239, 249, 269 and 274

[Release Nos. 33-10935; 34-91352; 39-2538, IC-34226]

#### Adoption of Updated EDGAR Filer Manual, Form ID Amendments

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Securities and Exchange Commission (the "Commission") is adopting amendments to Volumes I and II of the Electronic Data Gathering, Analysis, and Retrieval system ("EDGAR") Filer Manual ("EDGAR Filer Manual" or "Filer Manual"), a related form, and related rules. The amendments result in a more uniform

and secure process for EDGAR access by requiring certain applicants that already have an EDGAR Central Index Key (or CIK) account number, but do not have EDGAR access codes, to submit the related form and an authenticating document to obtain access to EDGAR. The related form has also been amended to update its instructions and cross-references to Volume I of the Filer Manual. The revisions to Volume II reflect additional updates to the EDGAR system.

#### **DATES:**

*Effective date:* May 11, 2021.

*Incorporation by reference:* The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of May 11, 2021.

*Compliance date:* The applicable compliance date is discussed in Section VII.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding the amendments to Volume I of the Filer Manual, Form ID, and related rules, please contact Rosemary Filou, Chief Counsel, or Monica Lilly, Senior Special Counsel, in the EDGAR Business Office at 202-551-3900. For questions concerning the changes to the submission form types for Forms N-NMFP and N-CEN, please contact Heather Fernandez in the Division of Investment Management at (202) 551-6708. For questions concerning changes to the submission form types for Form C, please contact Christian Windsor, Senior Special Counsel, in the Division of Corporation Finance at (202) 551-3419. For questions concerning the XBRL submissions, please contact the Office of Structured Disclosure in the Division of Economic and Risk Analysis at (202) 551-5494.

**SUPPLEMENTARY INFORMATION:** We are adopting an updated EDGAR Filer Manual, Volume I: "General Information," Version 37 (March 2021) and Volume II: "EDGAR Filing," Version 57 (March 2021); amendments to 17 CFR 232.10 and 17 CFR 232.301 ("Rule 301"); and amendments to Form ID (17 CFR 239.63, 17 CFR 249.446, 17 CFR 269.7, and 17 CFR 274.402). The updated Filer Manual volumes are incorporated by reference into the Code of Federal Regulations.

#### **I. Background**

The Filer Manual contains technical specifications needed for filers to make submissions on EDGAR. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of

filings made in electronic format.<sup>1</sup> Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filings when preparing documents for electronic submission.

Volume I of the Filer Manual provides general information regarding electronic submissions to the Commission on EDGAR, including information concerning requirements for becoming an EDGAR filer.<sup>2</sup> The amendments to Volume I require certain applicants that already have an EDGAR Central Index Key (or CIK) account number, but do not have EDGAR access codes, to submit the application for EDGAR access codes (Form ID) and an authenticating document to obtain access to EDGAR. In addition, the Commission is:

- Amending related rules and Form ID to reflect the changes to the EDGAR access process;
- Modifying Form ID to update its instructions and cross-references to Volume I of the Filer Manual; and
- Amending Volume II of the Filer Manual in accordance with additional EDGAR updates.

## II. Amendments to Volume I of the Filer Manual, Rules Related to EDGAR Access, and Form ID

All individuals, companies, and other organizations who seek a CIK and access codes to file on EDGAR must complete and submit a Form ID and an authenticating document.<sup>3</sup> The Form ID and authenticating document are intended to allow Commission staff to review applicant business information, determine if a person signing the Form ID is authorized by the applicant, and confirm the authorized person's identity through notarization. A separate, abbreviated process existed for certain applicants seeking EDGAR access codes that already have CIKs but have not filed electronically on EDGAR—for example, broker-dealers who have previously filed with the Commission only in paper form. This process was referred to as “Convert Paper Only Filer to Electronic Filer.”

In order to implement a more uniform and secure process for EDGAR access,

the Commission is amending Volume I of the EDGAR Filer Manual to require these applicants that already have CIKs, but do not have EDGAR access codes, to submit a Form ID and authenticating document to obtain EDGAR access.<sup>4</sup> This process will streamline administration of EDGAR access in the short term, and facilitate modernization of EDGAR access in the longer term.

As a conforming change, the Commission is deleting the phrase, “to whom the Commission previously has not assigned a Central Index Key (CIK) code” in rules related to EDGAR access requests.<sup>5</sup> Separately, the Commission is amending Form ID to delete references to applicants that do not have CIKs. These amendments clarify that a Form ID submission will be required by “Convert Paper Only Filer to Electronic Filer” applicants that already have CIKs but do not have EDGAR access codes.<sup>6</sup>

Finally, the Commission is modifying Form ID to update its instructions and cross-references to Volume I of the Filer Manual.<sup>7</sup>

## III. EDGAR Releases and Amendments to Volume II of the Filer Manual

EDGAR is being updated in Release 21.1, and was previously updated in Release 21.0.1, and corresponding amendments to Volume II of the Filer Manual are being made to reflect these changes, as described below.<sup>8</sup>

On November 2, 2020, the Commission adopted changes to Form C to be used by participants in Regulation Crowdfunding offerings.<sup>9</sup> As a result of

<sup>4</sup> The amendments to Volume I of the Filer Manual also include adding the title “EDGAR Access Consequences of Potentially Misleading or Manipulative Submissions and Unauthorized Submissions” to the discussion regarding 17 CFR 232.15 (Rule 15 of Regulation S-T) and changing the reference “authentication” documents to “authenticating” documents.

<sup>5</sup> See new rules 17 CFR 232.10(b), 17 CFR 239.63, 17 CFR 249.446, 17 CFR 269.7, and 17 CFR 274.402.

<sup>6</sup> We have submitted revised burden estimates on the Form ID collection of information to OMB for approval and have provided a notice and opportunity for the public to comment on the revised burden estimates. See, e.g., Proposed Collection and Comment Request for Form ID [85 FR 86599 (Dec. 30, 2020)].

<sup>7</sup> See Revised Volume I Release (allowing applicants to EDGAR the option of obtaining electronic notarizations and remote online notarizations). The Commission also amended 17 CFR 232.10(b) to remove the manual signature requirement for EDGAR access requests to allow electronic signature requests. *Id.*

<sup>8</sup> EDGAR Release 21.1 will be deployed on or about March 22, 2021. EDGAR Release 21.0.1 was deployed on January 11, 2021, and EDGAR Release 21.0.2 was deployed on February 18, 2021 (note that there were no corresponding amendments to the EDGAR Filer Manual for Release 21.0.2).

<sup>9</sup> See *Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets*, Release No. 33-10884 (Nov. 2, 2020) [86 FR 3496 (Jan. 14, 2021)].

this rulemaking, EDGAR Release 21.1 updates the following submission form types to include co-issuer fields: C, C/A, C-U, C-AR, C-AR/A, and C-TR. Filers can specify the co-issuer name, legal status, and address if the co-issuer is not an EDGAR filer but associated with the C, C/A, C-U, C-AR C-AR/A, and C-TR filing. Alternatively, if the co-issuer is an EDGAR filer, the system will pre-populate this information based on the CIK provided. See Chapter 8 (Preparing And Transmitting Online Submissions) of the EDGAR Filer Manual, Volume II: “EDGAR Filing.”

In order to simplify the preparation of XBRL submissions and reduce the number of separate file attachments, the content of section 6.7.8 (Element xsd:schema must not contain any occurrences of “embedded” linkbases) of Volume II of the Filer Manual has been deleted and marked as “Reserved.” Relatedly, updates have been made to section 6.9 (Syntax of all Linkbases) of Volume II of the Filer Manual. See Chapter 6 (Interactive Data) of the EDGAR Filer Manual, Volume II: “EDGAR Filing.”

EDGAR Release 21.0.1 updated submission form types N-MFP2 and N-MFP2/A to allow filers to provide negative values for Item A.16 and select “Exempt Government” and “Government/Agency” as the category of the fund in Item A.10 of the form types. EDGAR will continue to allow filers to choose “Exempt Government” and “Treasury” as the category of the fund in Item A.10 of the form types. See Appendix A (Messages Reported by EDGAR) of the EDGAR Filer Manual, Volume II: “EDGAR Filing.”

EDGAR Release 21.0.1 updated filer-constructed submission form types N-CEN and N-CEN/A to validate the CIK provided in the “Filer Information” section of the header with the CIK listed in the “Information about the Registrant” section. See Appendix A (Messages Reported by EDGAR) of the EDGAR Filer Manual, Volume II: “EDGAR Filing.”

EDGAR Release 21.1 also introduces, and Release 21.0.2 introduced, additional changes in EDGAR that do not require corresponding amendments to the Filer Manual. See the “Updates” section of Volume II of the EDGAR Filer Manual, Volume II: “EDGAR Filing.”

## IV. Amendments to Rule 301 of Regulation S-T

Along with the adoption of the updated Filer Manual, we are amending Rule 301 of Regulation S-T to provide for the incorporation by reference into the Code of Federal Regulations of the current revisions. This incorporation by

<sup>1</sup> See Rule 301.

<sup>2</sup> We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33-6986 (Apr. 1, 1993) [58 FR 18638]. The most recent update to the Filer Manual was Volume I: “General Information,” Version 36 (December 2020) and Volume II: “EDGAR Filing,” Version 56 (December 2020). See Adoption of Updated EDGAR Filer Manual, Proposed Collection and Comment Request for Form ID, Release No. 33-10902 (Dec. 11, 2020) [86 FR 7968 (Feb. 3, 2021)] (“Revised Volume I Release”).

<sup>3</sup> See 17 CFR 232.10(b), 17 CFR 239.63, 17 CFR 249.446, 17 CFR 269.7 and 17 CFR 274.402.

reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The updated EDGAR Filer Manual is available at <https://www.sec.gov/edgar/filer-information/current-edgar-filer-manual>. Typically, the EDGAR Filer Manual is also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Due to pandemic conditions, however, access to the Commission's Public Reference Room is not permitted at this time.

#### V. Administrative Law Matters; Effective and Compliance Dates

Because the Filer Manual, and form and rule amendments, relate solely to agency procedures or practice and do not substantially alter the rights and obligations of non-agency parties, publication for notice and comment is not required under the Administrative Procedure Act ("APA").<sup>10</sup> It follows that the amendments do not require analysis under requirements of the Regulatory Flexibility Act<sup>11</sup> or a report to Congress under the Small Business Regulatory Fairness Act.<sup>12</sup>

The effective date for the Filer Manual, Form ID, and related rule amendments is May 11, 2021. The compliance date for the updated Volume I of the Filer Manual, Form ID amendments (17 CFR 239.63, 17 CFR 249.446, 17 CFR 269.7, and 17 CFR 274.402), and 17 CFR 232.10(b) is June 25, 2021.

In accordance with the APA,<sup>13</sup> we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with the related system upgrades.

#### VI. Statutory Basis

We are adopting the amendments to Regulation S-T and Form ID under the authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,<sup>14</sup> Sections 3, 12, 13, 14, 15, 15B, 23, and 35A of the Securities Exchange Act of 1934,<sup>15</sup> Section 319 of the Trust Indenture Act of 1939,<sup>16</sup> and Sections 8,

30, 31, and 38 of the Investment Company Act of 1940.<sup>17</sup>

#### List of Subjects

##### 17 CFR Parts 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

##### 17 CFR Parts 239, 249, 269 and 274

Reporting and recordkeeping requirements, Securities.

#### Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

#### PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The authority citation for part 232 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

\* \* \* \* \*

##### § 232.10 [Amended]

■ 2. Amend § 232.10(b) by removing the phrase "to whom the Commission previously has not assigned a Central Index Key (CIK) code,".

■ 3. Revise § 232.301 to read as follows:

##### § 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets forth the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the updated EDGAR Filer Manual, Volume I: "General Information," Version 37 (March 2021). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: "EDGAR Filing," Version 57 (March 2021). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available at <https://www.sec.gov/edgar/filer-information/current-edgar-filer-manual>. The EDGAR Filer Manual is also available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. You can also inspect the document at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 4. The authority citation for part 239 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z-2, 77z-3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o-7 note, 78u-5, 78w(a), 78ll, 78mm, 80a-2(a), 80a-3, 80a-8, 80a-9, 80a-10, 80a-13, 80a-24, 80a-26, 80a-29, 80a-30, and 80a-37; and sec. 107, Pub. L. 112-106, 126 Stat. 312, unless otherwise noted.

\* \* \* \* \*

##### § 239.63 [Amended]

■ 5. In § 239.63, amend the introductory text by removing the phrase "to whom the Commission previously has not assigned a Central Index Key (CIK) code,".

#### PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 6. The authority citation for part 249 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; 12 U.S.C. 5461 *et seq.*; 18 U.S.C. 1350; Sec. 953(b), Pub. L. 111-203, 124 Stat. 1904; Sec. 102(a)(3), Pub. L. 112-106, 126 Stat. 309 (2012); Sec. 107, Pub. L. 112-106, 126 Stat. 313 (2012), and Sec. 72001, Pub. L. 114-94, 129 Stat. 1312 (2015), unless otherwise noted.

\* \* \* \* \*

##### § 249.446 [Amended]

■ 7. In § 249.446, amend the introductory text by removing the phrase "to whom the Commission previously has not assigned a Central Index Key (CIK) code,".

#### PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

■ 8. The authority citation for part 269 continues to read as follows:

**Authority:** 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, and 78ll(d), unless otherwise noted.

\* \* \* \* \*

<sup>10</sup> 5 U.S.C. 553(b)(A).

<sup>11</sup> 5 U.S.C. 601-612.

<sup>12</sup> 5 U.S.C. 804(3)(C).

<sup>13</sup> 5 U.S.C. 553(d)(3).

<sup>14</sup> 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

<sup>15</sup> 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78o-4, 78w, and 78ll.

<sup>16</sup> 15 U.S.C. 77sss.

<sup>17</sup> 15 U.S.C. 80a-8, 80a-29, 80a-30, and 80a-37.

**§ 269.7 [Amended]**

■ 9. In § 269.7, amend the introductory text by removing the phrase “to whom the Commission previously has not assigned a Central Index Key (CIK) code.”.

**PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940**

■ 10. The authority citation for part 274 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

\* \* \* \* \*

**§ 274.402 [Amended]**

■ 11. In § 274.402, amend the introductory text by removing the phrase “to whom the Commission previously has not assigned a Central Index Key (CIK) code.”.

■ 12. Form ID (referenced in §§ 239.63, 249.446, 259.602, 269.7 and 274.402) is amended by:

**Note:** The text of Form ID does not, and the amendments will not, appear in the Code of Federal Regulations.

■ a. In the instructions to the form, removing “to whom the Commission previously has not assigned a Central Index Key (CIK) code,” from the first sentence in the section entitled “Using and Preparing Form ID”;

■ b. In the instructions to the form, revising the third paragraph in the section entitled “Using and Preparing Form ID” to read as follows: “The applicant must provide applicable responses within the Form ID electronic filing. The applicant can save a partial or full Form ID electronic filing. At the completion of filling out the online form, the applicant must sign the copy within the “Form ID: Notarized Authentication” section and have the signature notarized to confirm authenticity of the Form ID filing. This signed and notarized document will fulfill the authenticating document requirement. This authenticated document must be attached to the

■ c. electronic Form ID filing in PDF format.”; and

■ d. In the instructions to the form, removing the last sentence in the second paragraph under “Contact for EDGAR Information, Inquiries, and Access Codes” in the section entitled “Section III—Contact Information.”

By the Commission.

Dated: March 18, 2021.

**Vanessa A. Countryman,**  
*Secretary.*

[FR Doc. 2021–08759 Filed 5–10–21; 8:45 am]

**BILLING CODE 8011–01–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[FF09E21000 FXES1111090000 212]

**Endangered and Threatened Wildlife and Plants; Two Species Not Warranted for Listing as Endangered or Threatened Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notification of findings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce findings that two species are not warranted for listing as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list Hall’s bulrush (*Schoenoplectiella hallii*) or triangle pigtoe (formerly *Fusconaia lananensis*). However, we ask the public to submit to us at any time any new information relevant to the status of any of the species mentioned above or their habitats.

**DATES:** The findings in this document were made on May 11, 2021.

**ADDRESSES:** Detailed descriptions of the bases for these findings are available on the internet at <http://www.regulations.gov> under the following docket numbers:

Species	Docket No.
Hall’s bulrush .....	FWS–R3–ES–2020–0144
Triangle pigtoe ...	FWS–R2–ES–2020–0145

Supporting information used to prepare this finding is available by contacting the appropriate person as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning this finding to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:**

Species	Contact information
Hall’s bulrush	Karen Herrington, Field Supervisor, Missouri Ecological Services Field Office, 573–234–2132, <a href="mailto:karen_herrington@fws.gov">karen_herrington@fws.gov</a> .
Triangle pigtoe	Debra Bills, Field Supervisor, Arlington Ecological Services Field Office, 817–277–1100 x22113, <a href="mailto:debra_bills@fws.gov">debra_bills@fws.gov</a> .

If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (“12-month finding”). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded. We must publish a notice of these 12-month findings in the **Federal Register**.

**Summary of Information Pertaining to the Five Factors**

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines “species” as any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines “endangered species” as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and “threatened species” as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

- (A) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) Overutilization for commercial, recreational, scientific, or educational purposes;

- (C) Disease or predation;
- (D) The inadequacy of existing regulatory mechanisms; or
- (E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term "foreseeable future" extends only so far into the future as the Service can reasonably determine that both the

future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether Hall's bulrush meets the definition of "endangered species" or "threatened species," we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. In conducting our taxonomic evaluation of triangle pigtoe, we determined that it does not meet the definition of a species or subspecies under the Act, and, as a result, we concluded that triangle pigtoe is not a listable entity. We reviewed the petitions, information available in our files, and other available published and unpublished information for both of these species. Our evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment form for Hall's bulrush contains more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that this species do not meet the definition of an endangered species or a threatened species. The species assessment form for triangle pigtoe contains more detailed taxonomic information, a list of literature cited, and an explanation of why we determined that this species does not meet the definition of a species or subspecies. This supporting information can be found on the internet at <http://www.regulations.gov> under the appropriate docket number

(see **ADDRESSES**, above). The following are informational summaries for the findings in this document.

#### *Hall's Bulrush*

##### Previous Federal Actions

On April 20, 2010, the Service received a petition from the CBD to list 404 aquatic, riparian, and wetland species from the southeastern United States, including Hall's bulrush (*Schoenoplectiella hallii*), as endangered or threatened under the Act (CDB 2010, entire). On September 27, 2011, we published a 90-day finding (76 FR 59836) for 374 of the 404 petitioned species, including Hall's bulrush; that finding stated that the petition presented substantial information that listing Hall's bulrush may be warranted, due to the threats of present or threatened destruction, modification, or curtailment of the species' habitat or range; predation; inadequacy of existing regulatory mechanisms; and other natural or manmade factors, including pollution, global climate change, drought, invasive species, and synergies between multiple threats. The finding solicited information on, and initiated a status review for, the species.

##### Summary of Finding

Hall's bulrush is a tufted annual bulrush with a stem length ranging from 1.6 to 31 inches (4 to 80 centimeters). It is historically found across 14 States: Massachusetts, Georgia, Ohio, Kentucky, Michigan, Indiana, Wisconsin, Illinois, Iowa, Missouri, Nebraska, Kansas, Oklahoma, and Texas. Biologists have concluded the species has been extirpated from Georgia and Massachusetts.

Hall's bulrush requires multiple adequately timed seasonal flood events to break seed dormancy and to trigger germination. For a seed to germinate, it also needs bare soil, presence of ethylene, light, adequate temperature, and moist soil. Seedlings and mature plants need light, moist soil, space, nutrients, and pollination (mature plant only).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to Hall's bulrush, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors and the cumulative impact of these stressors. The primary stressors affecting Hall's bulrush's biological status include habitat alteration, destruction, and conversion; hybridization; and grazing. Hall's

bulrush has little population abundance information available across its range. The best available demographic data do not allow us to evaluate the ability of Hall's bulrush populations to withstand demographic stochastic events. Annual variation (in timing and duration) of rain events mean that Hall's bulrush populations are cyclic and dependent on water fluctuations. Therefore, we assessed the population status based on the condition of the habitat, including the presence of potential hybridizing plants. We made the assumption that healthy habitat, (*i.e.*, higher habitat metric scores on the Environmental Protection Agency's Watershed Index Online tool and higher average scores of the Natural Resources Conservation Service depth to water table) will support a healthy population of Hall's bulrush.

Despite impacts from the primary stressors, the species has maintained populations throughout its range in multiple ecoregions. We anticipate sufficient quality and quantity of habitat to support the viability of the species for the foreseeable future. Hall's bulrush currently has healthy (moderately or highly resilient) populations across its range (32 extant populations across seven ecoregions). The species' representation among ecoregions has not changed significantly between the historical and most recent surveys. Hall's bulrush has retained redundancy (and we project it to be maintained into the future) based on multiple resilient populations being spread across its historical range in seven ecoregions. Based on these conditions, the Hall's bulrush current risk of extinction is very low. Although we predict some continued impacts from these stressors in the future, we anticipate the species will continue to maintain resilient populations into the foreseeable future throughout its range and that are distributed widely throughout each of

its ecoregions (representative units). Therefore, we find that listing Hall's bulrush as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Hall's bulrush species assessment form and other supporting documents (see **ADDRESSES**, above).

#### *Triangle Pigtoe*

##### Previous Federal Actions

On June 25, 2007, the Service received a petition dated June 18, 2007, from Forest Guardians (now WildEarth Guardians) requesting that the Service list 475 species, including the triangle pigtoe (formerly *Fusconaia lananensis*), as endangered or threatened species and designate critical habitat under the Act.

On December 16, 2009, the Service published a 90-day finding (74 FR 66866) on 192 of the 475 species and stated that the petition presented substantial scientific information indicating that listing may be warranted for 67 of the 192 species, including the triangle pigtoe. As a result, the Service initiated status reviews for all 67 species.

##### Summary of Finding

We have carefully assessed the best scientific and commercial information available regarding the triangle pigtoe and evaluated the petition's claims that the species warrants listing under the Act. Genetic and morphometric analyses indicate that the triangle pigtoe is synonymous with the wider-ranging Texas pigtoe (*Fusconaia askewi*). These studies have been accepted by the relevant scientific community, including NatureServe, the Freshwater Mollusk Conservation Society, Texas Parks and Wildlife Department, and the Service. Therefore, the triangle pigtoe is not a valid taxonomic entity; does not meet the definition of a species or subspecies under the Act; and, as a

result, does not warrant listing under the Act. A detailed discussion of the basis for this finding can be found in the triangle pigtoe species assessment form and other supporting documents (see **ADDRESSES**, above).

##### *New Information*

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to Hall's bulrush or triangle pigtoe to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor these species and make appropriate decisions about their conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

##### References Cited

A list of the references cited in this petition finding is available on the internet at <http://www.regulations.gov> in the species assessment form or in the appropriate docket provided above in **ADDRESSES** and upon request from the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

##### Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

##### Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

##### **Martha Williams,**

*Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2021-09748 Filed 5-10-21; 8:45 am]

**BILLING CODE 4333-15-P**



# Proposed Rules

Federal Register

Vol. 86, No. 89

Tuesday, May 11, 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 HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

#### 8 CFR Parts 103, 212 and 274

[CIS No. 2572-15; DHS Docket No. USCIS-2015-0006]

RIN 1615-AC04

#### Removal of International Entrepreneur Parole Program

**AGENCY:** U.S. Citizenship and Immigration Services, DHS.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The U.S. Department of Homeland Security (DHS) is withdrawing a proposed rule that published on May 29, 2018. The NPRM had proposed removing DHS regulations pertaining to the international entrepreneur parole program. Those regulations guide the adjudication of significant public benefit parole requests made by certain noncitizen entrepreneurs of start-up entities in the United States.

**DATES:** DHS withdraws the proposed rule published May 29, 2018 at 83 FR 24415 as of May 11, 2021.

**ADDRESSES:** The docket for this withdrawn proposed rule is available at <http://www.regulations.gov>. Please search for docket number USCIS-2015-0006.

**FOR FURTHER INFORMATION CONTACT:** Charles Nimick, Business and Foreign Workers Division Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240-721-3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:** On May 29, 2018, DHS published a notice of

proposed rulemaking (NPRM or proposed rule) titled “Removal of International Entrepreneur Parole Program” in the **Federal Register** (83 FR 24415). That rule proposed to revise DHS regulations governing adjudication of significant public benefit parole requests made by certain noncitizen entrepreneurs of start-up entities in the United States. Specifically, if finalized, the rule would have removed the international entrepreneur parole program (IE parole program) from DHS regulations. In response to the May 2018 NPRM, DHS received 892 comments during the 30-day public comment period. The overwhelming majority of commenters opposed the proposed removal of the IE parole program.

Approximately 8 percent of commenters expressed support for the rule’s removal of the IE parole program from the regulations and/or offered suggestions for improvement. Nearly 87 percent of commenters expressed general opposition to the rule that would have removed the IE parole program, without suggestions for improvement. Around 3 percent of commenters expressed mixed opinions on the rule and 2 percent were out of scope. Comments may be reviewed at the Federal Docket Management System (FDMS) at <http://www.regulations.gov>, docket number USCIS-2015-0006.

Commenters who opposed the rule did so primarily on the basis that removing the IE parole program would lead to unrealized economic benefits, damage U.S. innovation and entrepreneurship, and harm noncitizen startup founders. Additionally, commenters disagreed with DHS’s assertion that parole is not an appropriate mechanism for a program promoting entrepreneurs, and they further argued that IE parole is within the scope of DHS parole authority. Commenters also stated that DHS should not, as one of the proposed means of winding down the program, automatically terminate IE parole granted to individuals, arguing this would lead to a significant burden to entrepreneurs, their startup entities, and the individuals employed by their businesses. In addition, commenters believed the May 2018 NPRM’s statutory and regulatory reviews, required by Executive Orders 12866 and 13563, did not take into account the full costs of removing the IE parole program.

They argued that there would be significant costs from losing additional funding from current and future investors, as well as costs related to the viability and continued operation of the start-up entity. Commenters also felt the May 2018 NPRM did not fully consider costs to small businesses, nor did it provide less onerous alternatives, as required by the Regulatory Flexibility Act (RFA).

The NPRM was issued subsequent to Executive Order 13767, “Border Security and Immigration Enforcement Improvements,” issued on January 25, 2017. This Executive Order had directed Federal agencies to “ensure that parole authority under section 212(d)(5) of the INA is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons or a significant public benefit derived from such parole.”

On February 2, 2021, President Biden issued Executive Order 14010, “Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border.” This Executive Order revoked Executive Order 13767. In addition, on February 2, 2021, President Biden issued Executive Order 14012, “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans.” This Executive Order directed Federal Agencies to “identify any agency actions that fail to promote access to the legal immigration system.”

In light of the recent Executive Orders, DHS has reviewed the May 2018 NPRM and public comments that were overwhelmingly in opposition to the NPRM and has decided to withdraw that NPRM. DHS believes that the existing regulations in 8 CFR 212.19 appropriately guide the exercise of discretion, on a case-by-case basis, when considering requests for parole filed by noncitizen entrepreneurs. Such applications will continue to be decided consistent with the Secretary’s statutory authority to grant parole on a case-by-case basis when it is determined that the applicant will provide a significant public benefit and that the applicant merits a favorable exercise of discretion.

DHS further believes that continuing to administer the IE parole program, in accordance with 8 CFR 212.19, and withdrawing the May 2018 NPRM, is consistent with the Administration's goal of better ensuring that all avenues available under the law remain viable options for those seeking to come to the United States, including qualified entrepreneurs who would substantially benefit the United States by growing new businesses and creating jobs for U.S. workers. Therefore, for all the reasons discussed above, DHS is withdrawing the May 29, 2018, NPRM that would have removed the IE parole program from DHS regulations.

#### Authority

Executive Order 14010, "Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border"; 8 U.S.C. 1182(d)(5).

Executive Order 14012, "Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans."

**Alejandro N. Mayorkas,**

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021-09609 Filed 5-10-21; 8:45 am]

BILLING CODE 9111-97-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0350; Project Identifier MCAI-2020-01633-T]

RIN 2120-AA64

#### Airworthiness Directives; Airbus SAS Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A318, A319, A320, A321, A330-200, A330-300, A330-300, A330-800, A330-900, A340-200, A340-300, A340-500, A340-600, and A380-800 series airplanes. This proposed AD was prompted by a report that repetitive disconnection and reconnection of certain batteries during airplane parking or storage could lead to a reduction in capacity of those batteries. This proposed AD would

require replacing certain nickel-cadmium (Ni-Cd) batteries with serviceable Ni-Cd batteries, or maintaining the electrical storage capacity of those Ni-Cd batteries during airplane storage or parking, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by June 25, 2021.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://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-2021-0350.

#### 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-2021-0350; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3225; email [dan.rodina@faa.gov](mailto:dan.rodina@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-0350; Project Identifier MCAI-2020-01633-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

##### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3225; email [dan.rodina@faa.gov](mailto:dan.rodina@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

##### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0274, dated December 10, 2020 (EASA AD 2020-0274) (also referred to as the

Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all:

- Airbus SAS Model A318–111, –112, –121, and –122 airplanes;
- Airbus SAS Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes;
- Airbus SAS Model A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes;
- Airbus SAS Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes;
- Airbus SAS Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343, –743L, –841, and –941 airplanes;
- Airbus SAS Model A340–211, –212, –213, –311, –312, –313, –541, –542 –642, and –643 airplanes; and
- Airbus SAS Model A380–841, –842, and –861 airplanes.

Airbus SAS Model A320–215, A330–743L, A340–542, and A340–643 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a report that repetitive disconnection and reconnection of certain Ni-Cd batteries during airplane parking or storage could lead to a reduction in capacity of those batteries. The FAA is proposing this AD to address reduced capacity of certain Ni-Cd batteries, which could lead to reduced battery endurance performance and possibly result in failure to supply the minimum essential electrical power during abnormal or emergency conditions. See

the MCAI for additional background information.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2020–0274 describes procedures for replacing certain affected Ni-Cd batteries with serviceable Ni-Cd batteries, or maintaining the electrical storage capacity of those Ni-Cd batteries during airplane storage or parking.

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

**FAA’s Determination and Requirements of This Proposed AD**

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

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0274 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

**Explanation of Required Compliance Information**

In the FAA’s ongoing efforts to improve the efficiency of the AD

process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0274 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0274 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in the EASA AD. Service information specified in EASA AD 2020–0274 that is required for compliance with EASA AD 2020–0274 will be available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0350 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 1,814 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
5 work-hours × \$85 per hour = \$425 .....	\$0	\$425	\$770,950

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section

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

**Regulatory Findings**

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

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

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

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

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

#### List of Subjects in 14 CFR Part 39

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

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

##### § 39.13 [Amended]

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

**Airbus SAS:** Docket No. FAA–2021–0350; Project Identifier MCAI–2020–01633–T.

##### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 25, 2021.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (7) of this AD, certificated in any category.

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

(2) Model A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –251NX, –252N, –252NX, –253N, –253NX, –271N, –271NX, –272N, and –272NX airplanes.

(5) Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343, –841, and –941 airplanes.

(6) Model A340–211, –212, –213, –311, –312, –313, 541, and –642 airplanes.

(7) Model A380–841, –842, and –861 airplanes.

##### (d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

##### (e) Reason

This AD was prompted by a report that repetitive disconnection and reconnection of certain nickel-cadmium (Ni-Cd) batteries during airplane parking or storage could lead to a reduction in capacity of those batteries. The FAA is issuing this AD to address reduced capacity of certain Ni-Cd batteries, which could lead to reduced battery endurance performance and possibly result in failure to supply the minimum essential electrical power during abnormal or emergency conditions.

##### (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 Union Aviation Safety Agency (EASA) AD 2020–0274, dated December 10, 2020 (EASA AD 2020–0274).

##### (h) Exceptions to EASA AD 2020–0274

(1) Where EASA AD 2020–0274 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2020–0274 defines a “reconnection cycle” as “repeated disconnection and connection of a battery . . .” this AD defines it as “one instance of disconnection and connection of a battery. . . .”

(3) The “Remarks” section of EASA AD 2020–0274 does not apply to this AD.

##### (i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0274 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)(2) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto: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 paragraph (j)(2) of this AD, if any service information referenced in EASA AD 2020–0274 that contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, 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 instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

##### (k) Related Information

(1) For information about EASA AD 2020–0274 contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); Internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0350.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3225; email [dan.rodina@faa.gov](mailto:dan.rodina@faa.gov).

Issued on May 5, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–09876 Filed 5–10–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2020–1078; Project Identifier AD–2020–00716–A]

RIN 2120–AA64

#### Airworthiness Directives; Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Textron Aviation Inc. (Textron) (Type Certificate previously held by Cessna Aircraft Company) Models 210N, 210R, P210N, P210R, T210N, T210R, 177, 177A, 177B, 177RG, and F177RG airplanes. This proposed AD was prompted by the in-flight break-up of a Model T210M airplane in Australia, due to fatigue cracking that initiated at a corrosion pit, and subsequent corrosion reports on other Model 210-series and Model 177-series airplanes. This proposed AD would require visual and eddy current inspections of the carry-thru spar lower cap, corrective action if necessary, application of a protective coating and corrosion inhibiting compound (CIC), and reporting the inspection results to the FAA. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by June 25, 2021.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Textron Aviation Inc., One Cessna Boulevard, Wichita, KS 67215; phone: (316) 517-6061; email: [structures@txtav.com](mailto:structures@txtav.com); website: <https://support.cessna.com>. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1078; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

#### FOR FURTHER INFORMATION CONTACT:

Bobbie Kroetch, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Rd, Wichita, KS 67209; phone: (316) 946-4155; fax: (316) 946-4107; email: [bobbie.kroetch@faa.gov](mailto:bobbie.kroetch@faa.gov) or [Wichita-COS@faa.gov](mailto:Wichita-COS@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include Docket No. FAA-2020-1078; Project Identifier AD-2020-00716-A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

##### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Bobbie Kroetch, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Rd, Wichita, KS 67209. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

##### Background

The FAA received a report that, on May 26, 2019, a Textron Model T210M

airplane experienced an in-flight break-up while performing low-altitude aerial survey operations in Australia. The carry-thru spar failed and resulted in wing separation and loss of control of the airplane. A visual examination of the fracture surface identified fatigue cracking that initiated at a corrosion pit. The FAA issued an airworthiness concern sheet (ACS) on June 27, 2019, advising owners and operators of the accident and requesting relevant information about the fleet.

Following the ACS, the FAA received reports of widespread and severe corrosion of the carry-thru spar. Earlier Models 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, and T210M airplanes experienced the most widespread and severe corrosion, and the FAA issued AD 2020-03-16 (85 FR 10043, February 21, 2020) (AD 2020-03-16) as a final rule; request for comments to immediately address the unsafe condition on those airplanes.

The FAA also received reports of corrosion on later Models 210N, P210N, T210N, 210R, P210R, and T210R airplanes and Model 177-series airplanes. On Models 210N, P210N, T210N, 210R, P210R, and T210R airplanes, the upper surface of the carry-thru spar is covered by fuselage skin and is not exposed to the environment. This removes the leak paths at the skin splices common to the earlier Model 210 airplanes and reduces the potential for moisture intrusion. Additionally, the later Model 210 airplanes were manufactured with zinc chromate primer applied to all carry-thru spars. However, the later Model 210 airplanes were also delivered with foam installed along the carry-thru spar lower cap. The foam traps moisture against the lower surface of the carry-thru spar cap, which can aid in the development of corrosion. The Model 177-series airplanes share a similar carry-thru spar design with the earlier Model 210-series airplanes: The upper surface of the carry-thru spars are exposed, and the spars may not have been delivered with zinc chromate primer applied. Although Model 177-series airplanes were not delivered with foam padding installed on the lower surface of the carry-thru spar, corrosion has been reported on the carry-thru spar lower cap. Corrosion of the carry-thru spar lower cap can lead to fatigue cracking or reduced structural strength of the carry-thru spar, which, if not addressed, could result in wing separation and loss of control of the airplane.

### FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service documents proposed for compliance with this NPRM:

- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-08, Revision 2, dated August, 3, 2020 (SEL-57-08R2); and
- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-09, Revision 1, dated August, 3, 2020 (SEL-57-09R1).

For the applicable airplanes specified, these service letters contain instructions for visually inspecting the carry-thru spar for corrosion, damage, and cracks and for completing an eddy current inspection. This service information also specifies applying protective coating and CIC.

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 of this NPRM.

### Other Related Service Information

The FAA reviewed the following service letters related to this NPRM, which, for the applicable airplanes specified, contain instructions for visually inspecting the carry-thru spar for corrosion and doing an eddy current inspection of the carry-thru spar regardless of whether corrosion was found and removed. This service information also contains instructions for applying CIC, but does not specify applying protective coating.

- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-06, dated June, 24, 2019 (SEL-57-06);
- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-06, Revision 1, dated November 19, 2019;
- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-07, dated June 24, 2019 (SEL-57-07); and
- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-07, Revision 1, dated November 19, 2019.

The FAA also reviewed the service letters listed below related to this NPRM, which, for the applicable airplanes specified, contain the same instructions and repair criteria as SEL-57-08R2 and SEL-57-09R1.

- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-08, dated November 1, 2019;

- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-08, Revision 1, dated November 19, 2019; and
- Textron Aviation Mandatory Single Engine Service Letter, SEL-57-09, dated November 19, 2019.

### Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in SEL-57-08R2 and SEL-57-09R1, except as discussed under Differences Between this Proposed AD and the Service Information. This proposed AD also requires reporting the inspection results to the FAA by email at *Wichita-COS@faa.gov*.

### Differences Between This Proposed AD and the Service Information

• Although Textron SEL-57-08R2 also applies to Models 210G, T210G, 210H, T210H, 210J, T210J, 210K, T210K, 210L, T210L, 210M, and T210M airplanes, this proposed AD would not. The FAA issued AD 2020-03-16 to address the immediate safety of flight for those airplanes.

• Textron SEL-57-08R2 and Textron SEL-57-09R1 specify inspecting all interior surfaces of the carry-thru spar; additionally, Textron SEL-57-09R1 specifies inspecting the lower surface of the outboard spar to wing attach lugs. This proposed AD would only require inspecting the carry-thru spar lower cap, including the lower surface, edge, and upper surface of the lower cap. While the web, upper cap, and lugs of the carry-thru spar may be susceptible to corrosion, evidence does not support including inspection of these areas as part of this proposed AD. The FAA will continue to monitor reports of corrosion on all areas of the carry-thru spar for potential future action.

• Textron SEL-57-08R2 and Textron SEL-57-09R1 do not require an eddy current inspection on the carry-thru spar unless the amount of material removed in the blended area exceeds 0.010 inch deep but is within limits. This proposed AD would require an eddy current inspection of all locations on the carry-thru spar where corrosion was removed. The fatigue crack on the Model T210M airplane that suffered the fatal in-flight break-up initiated from a corrosion pit approximately 0.011 inch deep in the lower cap kick area. The visual and less restrictive eddy current inspection requirements specified in SEL-57-08R2 and SEL-57-09R1 could potentially miss similar fatigue cracks on airplanes currently operating in the field.

• Textron SEL-57-08R2 and Textron SEL-57-09R1 only require eddy current inspection of the lower cap kick of the carry-thru spar if corrosion is identified on the carry-thru spar cap. This proposed AD would require a one-time eddy current inspection of the lower cap kick area of all affected airplanes, regardless of the results of the visual inspection. The fatigue crack on the Model T210M airplane that suffered the fatal in-flight break-up initiated in the lower cap kick area. Cracks and corrosion damage may be difficult to identify through visual inspection alone. The FAA will use the results of the one-time eddy current inspection of the lower cap kick area, in part, to determine the necessity of future rulemaking action.

• Textron SEL-57-08R2 and Textron SEL-57-09R1 specify contacting Textron for evaluation and disposition of certain damage. Instead, this proposed AD would require removing the carry-thru spar from service or repairing it (if possible) in accordance with the AMOC procedures identified in paragraph (o) of this proposed AD. Operators should work with Textron to develop a repair in support of an AMOC request.

• Textron SEL-57-08 R2 and Textron SEL-57-09R1 provide instruction allowing airplanes that have complied with SEL-57-06 or SEL-57-07 to complete the application of the protective coating and CIC within 200 flight hours or at the next annual inspection, whichever occurs first. This proposed AD would permit those airplanes that have complied with the visual and eddy current inspections in SEL-57-06 or SEL-57-07, as required by paragraphs (g) and (h) of this proposed AD, to complete the application of the protective coating and CIC within 24 months from the date of the visual and eddy current inspections or within 12 months after the effective date of this AD, whichever occurs first.

### Interim Action

The FAA considers this proposed AD an interim action. This proposed AD would require a one-time visual inspection of specified areas on the carry-thru spar lower cap and an eddy current inspection of the lower cap kick area and any locations where corrosion was removed. This proposed AD would also require reporting the inspection results to the FAA. The FAA will analyze the inspection results received to determine further rulemaking action.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 3,421 airplanes of U.S. registry.

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

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections (includes part removal for access, removal of foam, if required, visual inspection, eddy current inspection of the cap kick area, and reassembly).	12 work-hours × \$85 per hour = \$1,020 .....	Not applicable	\$1,020	\$3,489,420
Spar treatment (application of primer and corrosion inhibitor)*.	3.5 work-hours × \$85 per hour = \$297.50 .....	\$340 .....	637.50	2,180,887.50
Report of inspection results .....	2 work-hours × \$85 per hour = \$170 .....	Not applicable	170	581,570

\* Model 210-series airplanes may only require application of corrosion inhibitor, depending on the condition of the zinc chromate primer. Model 177-series airplanes may or may not require

application of the primer, depending on the production year and the quality of any existing zinc chromate primer.

The FAA estimates the following costs to do any necessary repairs or

replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of aircraft that might need these actions:

**ON-CONDITION COSTS**

Action	Labor cost	Parts cost	Cost per product
Corrosion removal .....	2 work-hours × \$85 per hour = \$170 .....	Not applicable	\$170
On-condition eddy current inspection .....	1 work-hour × \$85 per hour = \$85 .....	Not applicable	85
Spar replacement, Model 210/T210-series airplanes ..	160 work-hours × \$85 per hour = \$13,600 .....	\$30,000 .....	43,600
Spar replacement, Model P210-series airplanes .....	170 work-hours × \$85 per hour = \$14,450 .....	\$30,000 .....	44,450
Spar replacement, Model 177-series airplanes .....	120 work-hours × \$85 per hour = \$10,200 .....	\$30,000 .....	40,200

The amount of work-hours necessary to complete the eddy current inspection and corrosion removal will depend on the extent of the corrosion on the spar. The FAA has no way of estimating the work-hours that may be required for those procedures. The FAA’s cost estimate assumes a minimum of one hour for the eddy current inspection and two hours for the corrosion removal. If the operator needs an alternative method of compliance for repair, the FAA has no way of estimating the extent of damage or follow-on eddy current inspection that may be required. The FAA has no way of estimating the potential cost of those actions.

Replacement spars are not currently available from Textron. Textron no longer produces the current spar design, and they are working to develop a new spar design. The FAA does not have data to determine the availability of replacement spars from other sources.

**Paperwork Reduction Act**

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

Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and

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

#### List of Subjects in 14 CFR Part 39

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

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Textron Aviation Inc. (Type Certificate previously held by Cessna Aircraft Company):** Docket No. FAA–2020–1078; Project Identifier AD–2020–00716–A.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by June 25, 2021.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Textron Aviation Inc. (Type Certificate previously held by Cessna Aircraft Company) Models 210N, 210R, P210N, P210R, T210N, T210R, 177, 177A, 177B, 177RG, and F177RG airplanes, all serial numbers, certificated in any category.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 5310, Fuselage Main, Structure.

#### (e) Unsafe Condition

This AD was prompted by the in-flight break-up of a Model T210M airplane, due to fatigue cracking of the carry-thru spar that initiated at a corrosion pit and subsequent corrosion reports on other Model 210-series and Model 177-series airplanes. The FAA is issuing this AD to detect and correct cracks, corrosion, and other damage of the carry-thru spar lower cap, which, if not corrected, could lead to the carry-thru spar being unable to support the required structural loads and could result in separation of the wing and loss of airplane control.

#### (f) Compliance

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

#### (g) Visual Inspection

Within 200 hours time-in-service (TIS) after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, prepare the carry-thru spar lower cap for inspection by following steps 4 and 5 of the Accomplishment Instructions in Textron Aviation Mandatory Single Engine Service Letter, SEL–57–08, Revision 2, dated August, 3, 2020 (SEL–57–08R2) or Textron Aviation Mandatory Single Engine Service Letter, SEL–57–09, Revision 1, dated August, 3, 2020 (SEL–57–09R1), as applicable to your airplane model. Visually inspect the carry-thru spar lower cap (including the lower surface, upper surface, and edge) with a 10X magnification lens looking for corrosion, cracks, and damage. You are not required to inspect the lower cap to web radius, spar web, upper cap, or lugs. Refer to the ‘Spar Dimensions’ and the ‘Spar Detail’ figures on page 7 of SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model, for the location of the specific spar features.

(1) If there is a crack, before further flight, remove the carry-thru spar from service.

(2) If there is damage or evidence of previous removal of corrosion (blending), before further flight, either remove the carry-thru spar from service or repair the area using a method approved as specified in paragraph (o) of this AD. Comply with the requirements in paragraph (h) of this AD before further flight.

(3) If there is any corrosion, before further flight, remove the corrosion in the affected area by following steps 6.B.(1) through (7) of the Accomplishment Instructions in SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model, and then mechanically measure the depth of the blended area using a straight edge and feeler gauge or a depth gauge micrometer.

(i) If the material removed in the blended area exceeds the allowable blend limits specified in table 1 (including the notes) of SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model, before further flight, either remove the carry-thru spar from service or repair the area using a method approved as specified in paragraph (o) of this AD. Comply with the requirements in paragraph (h) of this AD before further flight.

(ii) If the material removed in the blended area does not exceed the allowable blend limits specified in table 1 (including the notes) of SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model, comply with the requirements in paragraph (h) of this AD before further flight.

(4) If the visual inspection did not detect corrosion, cracks, or damage and there is no evidence of previous removal of corrosion, comply with the requirements in paragraph (h) of this AD before further flight.

#### (h) Eddy Current Inspection

(1) Complete an eddy current inspection of the carry-thru spar lower cap for cracks, corrosion, and damage in the following areas in accordance with step 7 of the Accomplishment Instructions in SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model.

(i) The kick area as depicted in the ‘Spar Dimensions’ figure on page 7 of SEL–57–

08R2 or SEL–57–09R1, as applicable to your airplane. You must complete an eddy current inspection of the lower cap kick area of your airplane regardless of whether corrosion was found and removed as a result of the visual inspection in paragraph (g) of this AD.

(ii) All areas where corrosion was found and removed as a result of the inspection in paragraph (g) of this AD.

(2) If there is a crack, before further flight, remove the carry-thru spar from service.

(3) If there is any damage, before further flight, either remove the carry-thru spar from service or repair the area using a method approved as specified in paragraph (o) of this AD. After completing the repair, repeat the eddy current inspection of the repaired area before further flight.

(4) If there is any corrosion, before further flight, remove the corrosion by following the requirements in paragraph (g)(3) of this AD. You must repeat the eddy current inspection and comply with paragraph (h) of this AD for the area where the additional material was removed, but you do not have to repeat the eddy current inspection of the kick area.

#### (i) Corrosion Protection

Within 12 months after the effective date of this AD, apply protective coating and corrosion inhibiting compound (CIC) by following steps 9 and 10 of the Accomplishment Instructions in SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model.

#### (j) Installation Prohibition

As of the effective date of this AD, do not install on any airplane a carry-thru spar unless it has been inspected as required by paragraphs (g) and (h) of this AD and corrosion protection applied as required by paragraph (i) of this AD.

#### (k) Reporting Requirement

Within 30 days after completing the inspections required by this AD or within 30 days after the effective date of this AD, whichever occurs later, report to the FAA by email ([Wichita-COS@faa.gov](mailto:Wichita-COS@faa.gov)) all information requested in the Carry-Thru Spar Inspection Report Attachment to SEL–57–08R2 or SEL–57–09R1, as applicable to your airplane model.

#### (l) Credit for Previous Actions

(1) You may take credit for the visual inspection required by paragraph (g) of this AD if you performed the visual inspection before the effective date of this AD using Textron Aviation Mandatory Single Engine Service Letter SEL–57–08, dated November 1, 2019 (SEL–57–08); Textron Aviation Mandatory Single Engine Service Letter SEL–57–08, Revision 1, dated November 19, 2019 (SEL–57–08R1); Textron Aviation Mandatory Single Engine Service Letter SEL–57–09, dated November 19, 2019 (SEL–57–09); Textron Aviation Mandatory Single Engine Service Letter SEL–57–06, dated June 24, 2019 (SEL–57–06); Textron Aviation Mandatory Single Engine Service Letter SEL–57–06, Revision 1, dated November 19, 2019 (SEL–57–06R1); Textron Aviation Mandatory Single Engine Service Letter, SEL–57–07, dated June 24, 2019 (SEL–57–07); or Textron Aviation Mandatory Single Engine Service Letter,



SEL-57-07, Revision 1, dated November 19, 2019 (SEL-57-07R1).

(2) You may take credit for the eddy current inspection of the lower cap kick area and all locations where corrosion was removed on the carry-thru spar lower cap as specified in paragraph (h) of this AD if you performed the eddy current inspection before the effective date of this AD using SEL-57-08, SEL-57-08R1, SEL-57-06, SEL-57-06R1, SEL-57-07, SEL-57-07R1, or SEL-57-09.

(3) You may take credit for the corrosion protection required by paragraph (i) of this AD if you performed those actions before the effective date of this AD using SEL-57-08, SEL-57-08R1, or SEL-57-09.

(4) If you can take credit for the visual and eddy current inspections as specified in paragraphs (l)(1) and (2) of this AD but you did not apply protective coating and CIC to the spar, you must apply protective coating and CIC by following steps 9 and 10 of the Accomplishment Instructions in SEL-57-08R2 or SEL-57-09R1, as applicable to your airplane model, within 24 months after the date you completed the visual and eddy current inspections or within 12 months after the effective date of this AD, whichever occurs first.

(5) To take credit for any previous action, you must have provided a completed Carry-Thru Spar Inspection Report, an attachment to SEL-57-06, SEL-57-06 R1, SEL-57-07, SEL-57-07R1, SEL-57-08, SEL-57-08R1, or SEL-57-09 to Textron Aviation Inc. before the effective date of this AD, or you must comply with paragraph (k) of this AD within 30 days after the effective date of this AD.

#### (m) Special Flight Permit

Special flight permits are prohibited.

#### (n) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

#### (o) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your

principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information.

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

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

#### (p) Related Information

(1) For more information about this AD, contact Bobbie Kroetch, Aviation Safety Engineer, Wichita ACO Branch, FAA, 1801 Airport Rd., Wichita, KS 67209; phone: (316) 946-4155; fax: (316) 946-4107; email: [bobbie.kroetch@faa.gov](mailto:bobbie.kroetch@faa.gov) or [Wichita-COS@faa.gov](mailto:Wichita-COS@faa.gov).

(2) For service information identified in this AD, contact Textron Aviation Inc., One Cessna Boulevard, Wichita, KS 67215; phone: (316) 517-6061; email: [structures@txtav.com](mailto:structures@txtav.com); website: <https://support.cessna.com>. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Issued on April 16, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-09871 Filed 5-10-21; 8:45 am]

**BILLING CODE 4910-13-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Chapter II

[Docket No. CPSC-2021-0014]

#### Off-Highway Vehicle (OHV) Fire and Debris-Penetration Hazards; Advance Notice of Proposed Rulemaking; Request for Comments and Information

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is considering developing a rule to address the risk of injury associated with fire and debris-penetration hazards

associated with off-highway vehicles (OHVs). This advance notice of proposed rulemaking (ANPR) initiates a rulemaking proceeding under the Consumer Product Safety Act (CPSA). We invite written comments from interested persons concerning the risk of injury associated with OHV fire and debris-penetration hazards, the regulatory alternatives discussed in this notice, other possible means to address this risk, and the economic impacts of the various alternatives. We also invite interested persons to submit an existing standard, or a statement of intent to modify or develop a voluntary standard, to address the risks of injury described in this ANPR.

**DATES:** Written comments and submissions in response to this notice must be received by July 12, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC-2021-0014, by any of the following methods:

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at:

[www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

*Written Submissions:* Submit written submissions by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7923. Alternatively, as a temporary option during the COVID-19 pandemic, you can email such submissions to: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

*Instructions:* All submissions received must include the agency name and docket number for this document. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to [www.regulations.gov](http://www.regulations.gov). Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to [www.regulations.gov](http://www.regulations.gov), and insert the docket number CPSC-2021-0014 into the "Search" box, and follow the prompts.

**FOR FURTHER INFORMATION CONTACT:** Han Lim, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place,

Rockville, MD 20850; telephone: (301) 987-2327; email: [hlim@cpsc.gov](mailto:hlim@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The CPSC is aware of numerous injuries and deaths resulting from fire hazards associated with all-terrain vehicles (ATVs), recreational off-highway Vehicles (ROVs), and Utility Terrain or Utility Task Vehicles (UTVs), and from debris-penetration hazards associated with ROVs and UTVs. For the purposes of this rulemaking proceeding, we collectively refer to these three vehicle types as off-highway vehicles, or OHVs.

CPSC staff's review of incident data from January 1, 2003 through December 31, 2020 in CPSC's Consumer Product Safety Risk Management System (CPSRMS) identified 28 fatalities and 264 injuries from fire-related OHV hazards, and 6 fatalities and 20 injuries<sup>1</sup> from debris-penetration OHV hazards. From the National Electronic Injury Surveillance System (NEISS) database, CPSC staff estimates there were 14,200 emergency department-treated injuries from 2007 to 2019 (based on a sample size of 282) associated with OHV fire, thermal, and burn hazards without indication of a crash or related event.

The current voluntary standards for the three OHV types are:

- ANSI/SVIA 1-2017 *Four-Wheel All-Terrain Vehicles—Equipment, Configurations, and Performance Requirements* developed by Specialty Vehicle Institute of America (SVIA) for ATVs and incorporated by reference as a mandatory standard in 16 CFR 1420.3;
- ANSI/ROHVA 1-2016—*Recreational Off-Highway Vehicles*; and
- ANSI/OPEI B71.9-2016—*American National Standard for Multipurpose Off-Highway Utility Vehicles*.

The current voluntary standards for ROVs and UTVs, ANSI/ROHVA-1-2016 and ANSI/OPEI B71.9-2016, respectively, do not have requirements that address fire hazards or debris-penetration hazards. The current voluntary standard for ATVs, ANSI/SVIA 1-2017, does not include requirements that address fire hazards.

CPSC staff has met with representatives from ROHVA, SVIA, and

OPEI on multiple occasions, beginning in September 2018, to discuss the development of requirements to address the risk of fire and debris-penetration hazards. CPSC staff believes that significant progress has been made in discussing possible fire preventative standard requirements, but to date the standard development organizations have not proposed any fire preventative standard requirements. In addition, there has been no discussion on possible debris-penetration mitigation standard requirements.

The Commission is considering developing a mandatory standard (or standards) to reduce the risk of injury associated with OHV fire and debris-penetration hazards. Commission staff prepared a briefing package to describe the products at issue, assess the relevant incident data, describe the hazards, examine relevant voluntary standards, and discuss regulatory alternatives for addressing the risk associated with OHV fire and debris-penetration hazards. That briefing package is available at: <https://www.cpsc.gov/s3fs-public/Advance-Notice-of-Proposed-Rulemaking-Regarding-Off-Highway-Vehicles.pdf>.

##### B. Statutory Authority

A rulemaking addressing the fire and debris-penetration hazards associated with ROVs and UTVs falls under the authority of the CPSA. 15 U.S.C. 2051-2084. A rulemaking addressing the fire hazards associated with ATVs is subject to section 42(b)(3) of the CPSA. Section 42(b)(3) provides that for CPSC-initiated changes to the mandatory standard for ATVs, 15 U.S.C. 2089, the Commission must make findings required by sections 7 and 9 of the CPSA, 15 U.S.C. 2056 and 2058. Thus, a Commission-initiated rulemaking addressing the fire hazards associated with ATVs would also fall under sections 7 and 9 of the CPSA. Because of the three vehicle types and two different hazard patterns involved in this rulemaking, it is possible the Commission will divide this rulemaking into separate rulemakings at the notice of proposed rulemaking (NPR) stage.

Under section 7 of the CPSA, the Commission may issue a consumer product safety standard if the requirements of the standard are “reasonably necessary to prevent or reduce an unreasonable risk of injury associated with [a] product.” 15 U.S.C.

2056(a). The safety standard may consist of performance requirements or requirements for warnings and instructions. *Id.* However, if there is a voluntary standard that would adequately reduce the risk of injury the Commission seeks to address, and there is likely to be substantial compliance with that standard, then the Commission must rely on the voluntary standard, instead of issuing a mandatory standard. 15 U.S.C. 2056(b)(1). To issue a mandatory standard under section 7, the Commission must follow the procedural and substantive requirements in section 9 of the CPSA. 15 U.S.C. 2056(a).

Under section 9 of the CPSA, the Commission may begin rulemaking by issuing an ANPR. 15 U.S.C. 2058(a). The ANPR must identify the product and the nature of the risk of injury associated with it; summarize the regulatory alternatives the Commission is considering; and include information about any relevant existing standards, and why the Commission preliminarily believes those standards would not adequately reduce the risk of injury associated with the product. The ANPR must also invite comments concerning the risk of injury and regulatory or other possible alternatives for addressing the risk, and invite the public to submit existing standards or a statement of intent to modify or develop a voluntary standard to address the risk of injury. *Id.*

After publishing an ANPR, the Commission may proceed with rulemaking by reviewing the comments received in response to the ANPR and publishing an NPR. An NPR must include the text of the proposed rule, alternatives the Commission is considering, a preliminary regulatory analysis describing the costs and benefits of the proposed rule and the alternatives, and an assessment of any submitted standards. 15 U.S.C. 2058(c). The Commission would then review comments on the NPR and decide whether to issue a final rule, along with a final regulatory analysis.

##### C. The Product

For purposes of this rulemaking, OHVs include: ATVs, ROVs, and UTVs. The scope of this rulemaking does not include golf cars, personal transport vehicles (PTVs), low-speed vehicles, or dune buggies.

<sup>1</sup> Note that two of the 20 injuries related to OHV debris-penetration hazards came from the NEISS data.

### 1. All-Terrain Vehicles

An all-terrain vehicle (ATV) is a motorized vehicle with three or four broad, low-pressure tires (less than 30 pounds per square inch), a seat designed

to be straddled by the operator, handlebars for steering, and designed for off-highway use. Since the 1980s, the CPSC has addressed ATV safety through various activities, including rulemaking,

recalls, consumer education, media outreach, and litigation. These efforts focused on stability and handling issues related to ATV overturn and collisions. Figure 1 shows an example of an ATV.



Figure 1: Example of an ATV

Currently, CPSC regulates ATVs through the incorporation by reference of ANSI/SVIA 1–2017 *Four-Wheel All-Terrain Vehicles—Equipment, Configuration, and Performance Requirements* as a mandatory standard (16 CFR 1420.3(a)).

### 2. Recreational Off-Highway Vehicles

An ROV is a motorized vehicle having four or more low-pressure tires designed for off-highway use and intended by the

manufacturer primarily for recreational use by one or more persons. Other characteristics of an ROV include: A steering wheel for steering control, foot controls for throttle and braking, bench or bucket seats, rollover protective structure (ROPS), restraint system, and a maximum speed greater than 30 miles per hour (mph). ROVs are intended to be used on terrain similar to ATVs. ROVs are distinguished from ATVs by the presence of a steering wheel, instead

of a handle bar for steering; bench or bucket seats for the driver and passenger(s), instead of straddle seating; foot controls for throttle and braking, instead of levers located on the handle bar; and ROPS and restraint systems that are not present on ATVs. CPSC staff has worked on stability, handling, and occupant protection issues related to ROVs since 2009.<sup>2</sup> Figure 2 shows an example of an ROV.

<sup>2</sup> The NPR for ROVs is available at: 79 FR 68964 (Nov. 19, 2014); the accompanying briefing package

is available at: <https://cpsc.gov/s3fs-public/pdfs/>

[foia\\_SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf](#).



Figure 2: Example of an ROV

3. Utility Terrain Vehicles or Utility Task Vehicles

For this rulemaking, a UTV is a motorized vehicle having four or more

low-pressure tires designed for off-highway use with the same characteristics as ROVs (bench seating, steering wheel, foot controls, ROPS, and seat belts). However, UTVs are intended

for utility use, have larger cargo beds to accommodate hauling-type tasks, and they generally have maximum speeds between 25 and 30 mph. Figure 3 shows an example of a UTV.



Figure 3: Example of a UTV

D. The Market

1. Market Size

ATV sales have varied over the last 15 years. U.S. ATV sales peaked in 2004,

at an estimated 812,000 units. Since 2004, ATV sales have declined steadily. The Commission estimates approximately 205,000 ATVs were sold in the United States in 2018: 177,000

adult models and 77,000 youth models, with sales revenue of approximately \$1.35 billion. The Commission identified 13 manufacturers supplying ATVs to the U.S. market in 2018, six

from the United States, five from Taiwan, and one each from Japan and Mexico. Nine manufacturers were responsible for all ATVs distributed into the U.S. market in 2018; four U.S. manufacturers distributed ATVs manufactured by Taiwanese firms, in addition to their own. U.S. manufacturers accounted for approximately 63 percent of 2018 U.S. ATV sales; all ATVs were manufactured and/or distributed by current members of the Specialty Vehicle Institute of America (SVIA).

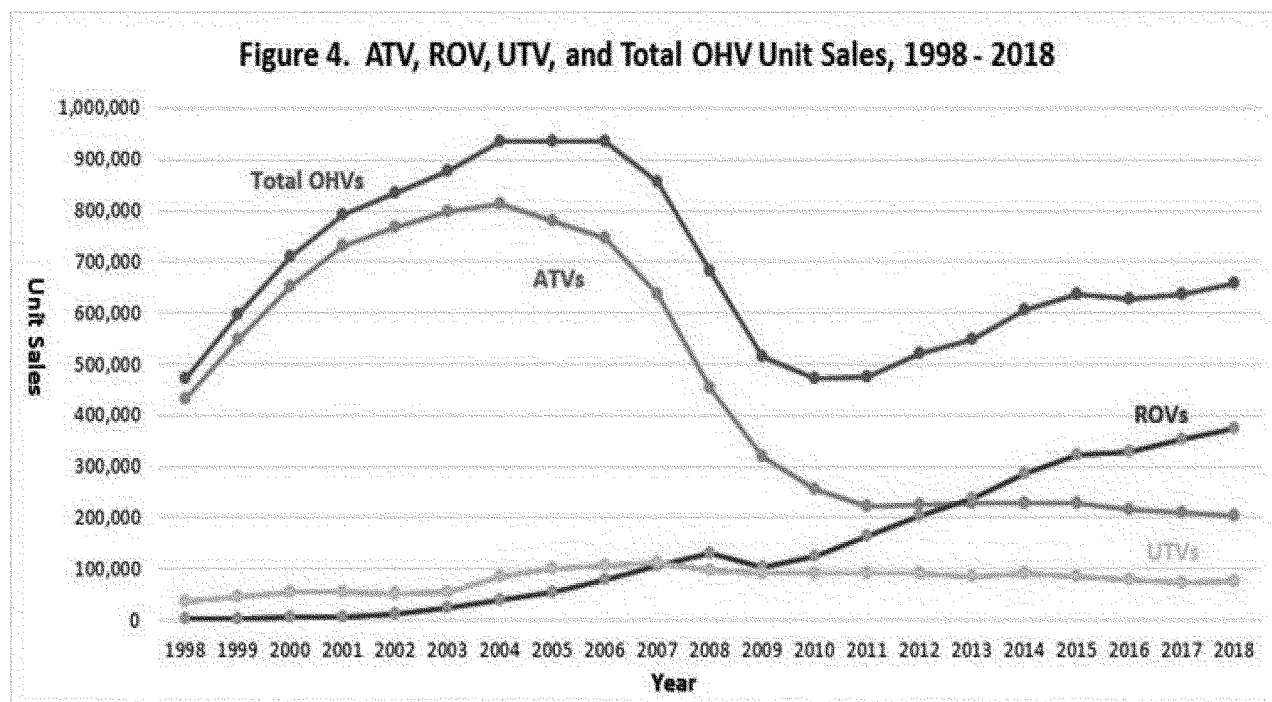
Except for 2009, annual U.S. ROV sales have increased steadily, from an estimated 2,700 units in 1998, to an estimated 376,000 units in 2018. The Commission estimates 2018 U.S. ROV sales revenue at approximately \$5.85 billion. The Commission identified 35 manufacturers known to have supplied ROVs to the U.S. market in 2018, 20 from China (including Taiwan); 13 from the United States, and 1 each from

Mexico and South Korea. The Commission identified 53 distributors/brands. CPSC staff estimates U.S. manufacturers accounted for approximately 79 percent of 2018 U.S. ROV sales, and estimates approximately 90 percent of ROVs sold in the United States in 2018 were manufactured by current members of the Recreational Off-highway Vehicle Association (ROHVA) or the Outdoor Power Equipment Institute (OPEI).

U.S. UTV sales peaked in 2007, at an estimated 112,000 units, before gradually declining. Approximately 76,000 UTVs were sold in the United States in 2018, with sales revenue of approximately \$700 million. The Commission identified 22 manufacturers known to have supplied UTVs to the U.S. market in 2018, 14 from the United States, 6 from China (including Taiwan), and 1 each from Canada and South Korea; and 27 distributors/brands were identified. The

Commission estimates U.S. manufacturers accounted for approximately 92 percent of 2018 U.S. UTV sales. Current ROHVA and OPEI members accounted for approximately 90 percent of U.S. 2018 UTV sales.

Total U.S. OHV unit sales peaked in 2004, at approximately 937,000. OHV sales then declined, to approximately 475,000 by 2011, before beginning a partial recovery. Figure 4 illustrates ATV, ROV, UTV, and total OHV unit sales from 1998 through 2018. The Commission identified as many as 52 manufacturers and 68 distributors/brands of OHVs supplying an estimated 657,000 OHVs to the U.S. market in 2018, with sales revenue exceeding \$7.87 billion. The Commission estimates U.S. manufacturers accounted for approximately 75 percent of 2018 U.S. OHV sales; SVIA, ROHVA, and OPEI members accounted for approximately 93 percent of 2018 U.S. OHV sales.



## 2. Retail Prices

The Commission identified 115 different ATV model variants and configurations in two product segments sold in the United States in 2018: Youth and adult. Youth ATV manufacturer suggested retail prices (MSRPs) ranged from a minimum of \$1,999, to a maximum of \$3,799, with an average of approximately \$2,650. Adult ATV model MSRPs ranged from a minimum of \$3,799, to a maximum of \$15,349, with a mean of approximately \$7,400.

The mean MSRP for all U.S. ATV sales in 2018 was approximately \$6,750.<sup>3</sup>

As with ATVs, there is significant variation in ROV design, weight, engine displacement, and other characteristics and accessories. The Commission identified 396 different ROV model variants and configurations that were sold in the United States in 2018. ROV

MSRPs ranged from a minimum of \$3,299, to a maximum of \$53,700, with an average of approximately \$15,400.

The Commission identified 138 different UTV model variants and configurations that were sold in the United States in 2018. UTV MSRPs ranged from a minimum of \$3,499 to a maximum of \$49,900, with an average of approximately \$12,000.

<sup>3</sup> Unless otherwise noted, OHV product and market information is based upon CPSC staff analysis of 1998–2018 sales data provided by Power Products Marketing, Minneapolis, MN.

3. Number of Off-Highway Vehicles in Use

The Commission is unable to provide an accurate estimate of the number of OHVs currently in use, due to a lack of reliable estimates of ATV, ROV, and

UTV product life. Table 1 illustrates a range of estimates possible under different assumptions of product life. In each case, the estimate is constructed using a gamma distribution, a common distribution for estimating failure rates,

with shape = 5 and  $\beta = 1$ , applied to 1998–2018 OHV sales data. Table 1 provides estimates for ATVs, ROVs, UTVs, and total OHVs under three product-life assumptions (10, 15, and 20 years).<sup>4</sup>

TABLE 1—ESTIMATES OF OHVS IN USE  
[Gamma distribution w/shape = 5 and beta = 1]

Life expectancy	10 Years	15 Years	20 Years
ATV .....	3,217,376	5,782,667	7,467,359
ROV .....	2,419,854	2,725,373	2,853,372
UTV .....	895,474	1,226,299	1,417,666
Total .....	6,532,704	9,734,340	11,738,397

4. Small Businesses Subject to Rulemaking

OHV manufacturers might be classified in the North American Industrial Classification System (NAICS) category 336999 (All Other Transportation Equipment Manufacturing), or possibly, 336112 (Light Truck and Utility Vehicle Manufacturing), 333111 (Farm Machinery and Equipment), 333112 (Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing), and 333120 (Construction Machinery Manufacturing). According to size standards established by the U.S. Small Business Administration (SBA) for these NAICS, firms with fewer than 1,000, 1,500, 1,250, 1,500, and 1,250 employees, respectively, are considered to be small firms. OHV distributors may

be classified in NAICS categories 423110 (Automobile and Other Motor Vehicle Merchant Wholesalers) or 441228 (Motorcycle, ATV, and All Other Motor Vehicle Dealers). The SBA size standard for these NAICS classifications is 500 employees. The Commission identified eight U.S. OHV manufacturers that meet these SBA size standards, nine that do not, and four for which a determination could not be made. CPSC staff also identified 27 OHV distributors that meet these SBA size standards, 24 that do not, and 17 for which a determination could not be made.

penetration hazards. The reported incidents from CPSC’s Consumer Product Safety Risk Management System (CPSRMS) are from January 1, 2003 through December 31, 2020; the National Electronic Injury Surveillance System (NEISS)-based injury estimates are from January 1, 2007 to December 31, 2019.

Fire and debris-penetration hazards are generally unrelated to one another. Out of the 4,792 incidents staff identified as related to debris-penetration or fire hazards, only two exhibited *both* debris-penetration and fire-related hazards. Table 2 shows the breakout of hazards by data sources and severity of incidents.

E. Risk of Injury

1. Incident Data

CPSC staff conducted a review of incidents, injuries, and fatalities associated with OHV fire and debris-

TABLE 2—INCIDENT RECORDS RELEVANT TO DEBRIS-PENETRATION AND/OR FIRE HAZARDS AS PRESENTED IN THIS REPORT

Relevant hazards	Total records reviewed	CPSRMS (2003–2020)			NEISS (2007–2019)
		Fatal reported incidents	Injury reported incidents	No injury reported incidents	Injury cases in sample
Debris Penetration .....	107	6	18	81	2
Fire Hazard (fire, thermal, leaks) .....	4,683	28	264	4,109	282
Both hazard of Debris-Penetration and Thermal, Fuel, or Fire-Related Hazards .....	2	0	1	1	0
Total .....	4,792	34	283	4,191	284

Sources: CPSRMS and NEISS.

(a) Fire Hazard Incidents

CPSC staff’s assessment of the fire hazard incidents excludes fires ignited by external sources (e.g., overtaken by a controlled burn or bonfire, even if the

OHV ignites) refueling incidents, and incidents in which it is ambiguous about whether the source of the fire may have come from a source outside the OHV. The analysis of reported incidents

in CPSRMS with incident dates from 2003 through 2020 is detailed below.

<sup>4</sup>Implied in the total OHV estimates is the assumption that ATVs, ROVs, and UTVs have the same expected product life. This assumption likely

does not hold, because product life is dependent upon annual mileage, terrain driven upon, and

other usage characteristics, which are not homogenous across OHV categories.

CPSRMS Incident Data (2003–2020)  
 CPSC staff categorized reports in CPSRMS with incident dates from 2003 through 2020 into one of several mutually exclusive categories. Sometimes OHV fires occur after a crash, and because these events may involve multiple complicating factors, they are set aside in their own category. It is very plausible that in some of these

instances, occupants may still have been injured or killed from the crash, even if the vehicle had not ignited. For instances of a fire igniting before or without a crash, it is generally clearer to attribute resulting injuries or deaths specifically to the fire. In many other instances, there may be thermal events that do not involve actual ignition of fire; but such events can still be harmful

or hazardous. Leaks or spraying of oil or fuel do not necessarily constitute a thermal event, because these flammable liquids not only have the potential to ignite and release thermal energy; but even without ignitions, such leaks can present a hazard.  
 Table 3 presents the fire hazard subtypes by the severity of the outcome as seen in the CPSRMS incident data.

TABLE 3—REPORTED INCIDENTS BY FIRE HAZARD SUBTYPE AND SEVERITY; 2003–2020

Type of fire, thermal, or leak hazard	Reported incidents	Reported incident severity		
		Fatal	Injury	No injury
Post-Crash Fire Ignition .....	51	28	18	5
Fire Ignited (without/prior to crash) .....	1,626	0	129	1,497
Thermal Event or burn (without Fire Ignition) .....	2,451	0	105	2,346
Leak or spray of oil or fuel (without other burn, thermal event, or fire) .....	273	0	12	261
Total .....	4,401	28	264	4,109

Source: CPSRMS.

NEISS-Based National Injury Estimates (2007–2019)

There are an estimated 14,200 (sample size = 282) emergency department-treated injuries from 2007 to 2019, associated with OHV fire, thermal, and burn hazards without indication of a crash or related event. “Crash-type events” are defined in this review to include vehicle wrecks, rollovers, entrapments, traffic collisions, and victims falling or jumping from the vehicle, for example.

Although crash-type events coinciding with burns and other thermal-, fuel- and fire-related hazards are of concern, such cases were already considered and discussed among the reported incidents. For the assessment of NEISS injury cases, they are excluded to focus on injuries more directly attributable to heat and thermal events. This narrowing of scope is not intended to suggest that overheating or other malfunctioning of the OHV occurred, or even that other additional factors were not involved, but simply to indicate that

a burn, or other thermal-related event occurred without a crash-type event. Staff is unable to present the annual estimates of the injuries over the period from 2007 through 2019, because estimates for many of the individual years fall below the NEISS publication criteria.<sup>5</sup> However, staff did not see any increasing or decreasing trend in the data.  
 The 14,200 estimated thermal-, fuel-, and fire-related injuries are based on a sample size of 282 cases. The vast majority of these estimated injuries indicate burns (as the primary diagnosis), without necessarily involving the ignition of any fire or flame. Of the injuries involving burns, around 12,800 injuries (about 91 percent) were classified as thermal burns, while the remainder consisted of scald burns, chemical burns, or burns that were not specified. None of the incidents reviewed involved any fatalities. Only around 3 percent of estimated injuries mentioned any sort of fire ignition. Less than 2 percent of estimated injuries did not mention burns, but instead involved exploding

projectiles lacerating or penetrating the body, or a gasoline explosion.  
 Most of the injuries were suffered in the lower body, with an estimated 5,900 (42%) of injuries affecting the lower leg in particular. About 1,800 (13%) of the injuries affected the ankle, foot, or toe, and about 1,500 (11%) involved the knee, upper leg and/or lower trunk. Many of these injuries suffered at the leg and neighboring body parts were described as involving burns from the muffler, exhaust pipe, and/or hot exhaust. It was not always clear whether the burns were suffered due to direct contact or proximity. An estimated 3,200 (23%) of the injuries involved hands and fingers. Injuries between the shoulders and wrists (including arms and elbows) were attributed to an estimated 1,300 (9%) of the injuries. Several reported injuries also occurred on or near the eyes and face, but the sample size is too small to project an estimate specific to that region of the body. Table 4 presents the estimated injuries by body parts grouped as described above.

TABLE 4—U.S. EMERGENCY ROOM-TREATED INJURIES RELATED TO FIRE/THERMAL/FUEL HAZARDS WITHOUT INDICATION OF CRASH-TYPE EVENTS BY BODY PARTS; 2007–2019

Body part	Body parts group estimate	Percentage of estimated injuries for body part group (percent)
Leg, lower *** .....	5,900	42
Ankle;*** Foot; Toe .....	1,800	13
Trunk, lower; Leg, upper; Knee .....	1,500	11

<sup>5</sup> According to the NEISS publication criteria, an estimate must be 1,200 or greater, the sample size

must be 20 or greater, and the coefficient of variation must be 33 percent or smaller.

TABLE 4—U.S. EMERGENCY ROOM-TREATED INJURIES RELATED TO FIRE/THERMAL/FUEL HAZARDS WITHOUT INDICATION OF CRASH-TYPE EVENTS BY BODY PARTS; 2007–2019—Continued

Body part	Body parts group estimate	Percentage of estimated injuries for body part group (percent)
Hand; Finger .....	3,200	23
Shoulder; Arm, upper; Elbow; Arm, lower; Wrist .....	1,300	9
Eyeball; Face * .....	(**)	(**)
Total .....	14,200	100

Source: NEISS.

\* “Face” includes eyelid, eye area, nose, and forehead.

\*\* Sample size is too small to report estimate specific to this group of body parts.

\*\*\* Almost all injuries in this dataset are classified under a single primary (e.g., most severely injured) body part. Only one injury is counted only as a lower leg injury (and not as an ankle injury) which also involved a burn at the lower leg in combination with a “popped” ankle when the vehicle “blew out.”

An overwhelming majority of the emergency room patients (94%, or an estimated 13,500) were treated and released, or released without treatment. The remainder were treated and admitted for hospitalization, held for observation, or left without treatment or being seen.

Although the majority of these injuries appear to have involved burns due simply to proximity or contact with heat sources, some other relevant hazards are observed among the NEISS cases. There were several incidents relating to fuel or gasoline, battery or some form of “explosion”; and as previously mentioned, there were a few incidents in which ignition or fire was mentioned. Staff does not have data about which burn cases resulted from overheating, as compared to components operating at normal hot temperatures. However, given that many of the injuries involving the hand and fingers appear to have involved contact with components that are expected to be heated at normal operational conditions, staff infers that many of the hand burns likely occurred without the OHV overheating, or otherwise functioning outside of normal design parameters.

(b) Debris-Penetration Incidents

Debris penetration involves debris (usually a tree branch or stick) penetrating an OHV (usually the floorboard of underside of an ROV or UTV). When such penetration occurs, there is a potential hazard of the branch or other debris to penetrate not only the floor or body of the OHV, but also occupants of the OHV. None of the incidents staff identified were found to involve ATV debris-penetration incidents. Given that ATVs lack floorboards, this result was not unexpected; but staff did search OHV incidents for this hazard, regardless of whether it was indicated to involve an

ATV, ROV, UTV, or unknown type of OHV.

In the NEISS data, staff identified only two cases with sufficient descriptive information to conclude that the injuries were specifically associated with a debris-penetration hazard. Due to this small sample size, staff cannot report any estimate of injuries. Instead, for the debris-penetration-hazard scenario, staff counted the two injuries from NEISS with the other reported injuries from CP SRMS.

For the six fatal incidents, two involved a passenger’s death, while the other four involved the driver’s death. Four involved a tree branch, one a large stick, and the other a 2-inch to 3-inch piece of wood. At least three involved penetration of the chest.

The list below paraphrases text written by the respective CPSC investigators for each of the six fatal incidents:

- Tree limb penetrated the floor board and struck passenger in chest (driven in water);
- tire over tree limb that pierces fender, nylon mesh door, and left side of driver (driven in woods);
- passed over a large stick that was sticking up in the ground, which passed through brake pedal arm through bottom edge of seat and into lower abdomen of driver (driven in power line clearing);
- impaled by a 2- to 3-inch-size piece of wood in upper right thigh, causing exsanguination of driver (driven on heavily forested public land);
- branch penetrated UTV bottom and struck passenger in chest (driven along trail);
- ran over large tree branch that struck driver in chest (driven in mountains).

Table 2 presents the severity of the 20 nonfatal injury incidents from debris penetration.

TABLE 5—DEBRIS PENETRATION BY INJURY SEVERITY: 2003–2020

Injury severity	Incidents
Hospital Admission .....	4
Emergency Department Treatment Received .....	3
First Aid Received by Non-Medical Professional .....	1
No First Aid or Medical Attention Received .....	2
Level of care not known .....	10
Total Injury Incidents .....	20

Sources: CP SRMS and NEISS.

2. Hazard Patterns and Analysis of In-Depth Investigations

(a) Fire Hazard Review and Assessment

Since 2018, CPSC staff has collaborated with the three standards development organizations (SDOs): ROHVA, OPEI, and SVIA, to examine fire hazard causations of OHV-related incidents investigated by CPSC staff and reported as in-depth investigations (IDIs). All three vehicle types, ROVs, UTVs, and ATVs, were associated with fire hazards. Staff provided the SDOs with 121 redacted IDIs related to fire hazards in OHVs for review and analysis. These 121 redacted IDIs are a subset of the more comprehensive list of IDI data analyzed by the CPSC Epidemiology staff and detailed in section E.1 of this preamble. Of the 121 redacted IDIs, CPSC staff and the SDOs concluded that 84 IDIs contained sufficient information to determine cause of fire origin, and they agreed to categorize these IDIs. This discussion provides staff’s insight into this subset of 121 incidents discussed by and the SDOs. When cause or categorization of incidents are discussed here, we discuss only the 84 incidents for which CPSC staff and SDOs agreed there was sufficient information for categorization. Fuel leaks are considered fire hazards



because ignition of flammable fluids contributes to the severity of an incident. The fire and fuel leak origins identified in the 84 IDIs include a breach in the fuel system, electrical component failure, exhaust overheating, and debris (grass/dry vegetation) ignition.

The majority (44 of the 84) of the causations involved fuel system components (29) and exhaust overheating (15). The others involved specific electronic components (voltage regulator, wiring harness, electronic control module, or battery), debris (grass or dry vegetation) ignition from contacting exhaust heat, oil leaks, and unknown causes. Those that were

deemed unknown involved either two or more possible combined causations or instances where causations could not be determined due to insufficient information from particular IDIs. Twenty-seven of the 121 IDIs involved burn injuries when consumers contacted hot surfaces or suffered burns from open flames. Neither CPSC staff, nor the SDOs, identified any fires due to the lack of a spark arrester.

Of the 37 IDIs that had unknown fire causations, 20 involved total-OHV losses. A total loss fire refers to an OHV that has been completely consumed by the fire, leaving only a metal frame and other non-combustible metal parts. A total loss can occur when a smaller fire

spreads into a fuel-fed fire, so that the entire vehicle becomes engulfed in flames. This often makes it difficult to determine the origin of the fire. The smaller fire can originate from various sources, such as an overheating exhaust that burns a plastic body panel, a fuel leak fire, or a fire from an electrical short, where a portion of a plastic body panel may catch fire, then that fire can spread to the entire vehicle because the majority of the OHV body panels are generally made of flammable plastics. Total loss incidents, as shown in Figure 5, represent the most severe fire hazard of an OHV.



Figure 5: ROV Prior to the Fire Incident (Left), ROV on Fire (Middle), and ROV Post-Total Loss Fire (Right)

Each OHV is equipped with subsystems that have combustible or flammable sources that can lead to fires and/or fire hazards (*i.e.*, fuel leaks). These subsystems are the fuel system (fuel tank, fuel pump, fuel rail, fuel filter, hoses, shutoff valves, and fuel caps), electrical system (voltage regulator, wire harnesses, battery, fuse boxes, and alternator), and the exhaust system (exhaust piping, catalytic converter, muffler, and all surrounding componentry).

With respect to the fuel system, a breach in the fuel system can cause a

fuel leak and pose a risk of fire. A breach can be a crack/hole in the fuel tank, damaged fuel hose, crack/hole in a fuel filter, or unsecured fuel connection to a fuel rail. For example, in one IDI involving an ATV, a passenger received second- and third-degree burns to the right wrist and right leg when the ATV burst into flames from an overheated gasoline line that melted and spilled fuel onto the hot engine.

Other fuel-related fire hazards can be due to over-pressurization of the fuel system and inadequate ventilation.

Inadequate ventilation and over-pressurization of the fuel system can result in boiling gasoline, which can expel abruptly when opening the fuel cap, potentially splashing hot gasoline onto consumers. Figure 6 shows an example from an IDI of an over-pressurization scenario with an ROV. Unbeknownst to the consumer, opening the fuel cap released pressurized gasoline and a brief fire resulted. Black soot can be seen surrounding the fuel cap.

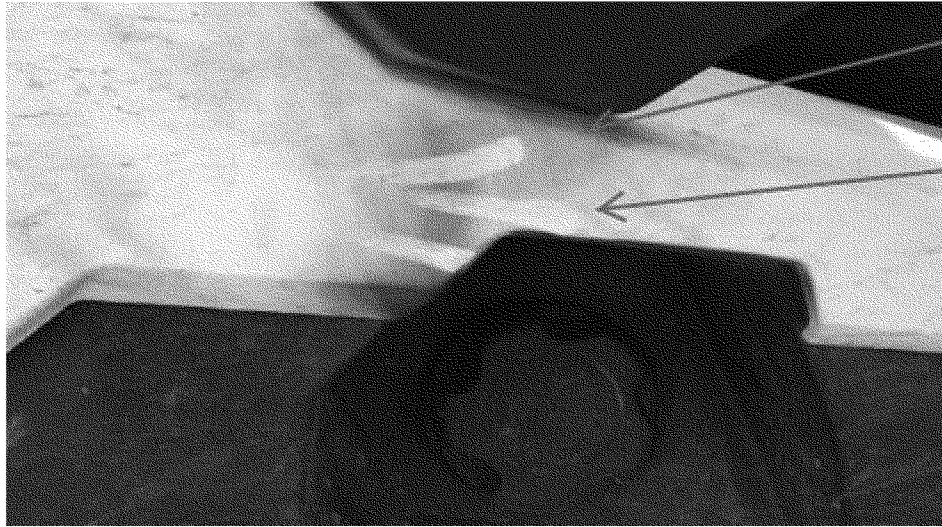


Figure 6 – Soot on the Frame of the ROV (Red Arrows) Resulted from Flames that Shot Out from the Fuel Tank When the Consumer Opened the Gas Cap

An electrical failure, such as an electrical short or an electronic component overheating, can lead to

fires. Figure 7 illustrates a fire that started due to an overheated electronic

control module (ECM), which ignited the ECM and wiring.

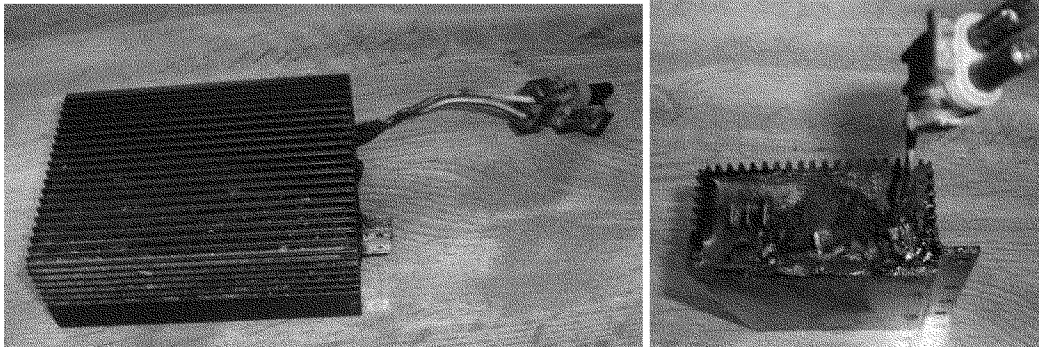


Figure 7 – Example of Burned ATV ECM; Left Photo – Top View, Right Photo – Side View

Excessive exhaust heat near flammable plastics can cause melting and subsequently fires, if the exhaust systems do not manage the exhaust heat sufficiently, via heat shielding and/or adequate ventilation. It is not uncommon for modern ROV exhaust surface temperatures to exceed 800 °F. Insufficient heat shielding between the

exhaust pipes and plastic paneling can cause the plastic to melt. Figure 8 illustrates a fire that ignited when melted plastic paneling dripped onto the exhaust pipe and burned a hole through the panel.

Of the 121 IDIs examined, 27 IDIs involved burned victims. Of these 27 IDIs, 10 specified first-, second-, and/or

third-degree burn injuries. The other 17 IDIs did not specify the severity of the burn injuries. These burn injuries occurred when victims had direct contact with a hot surface or when an open flame burned the victims.

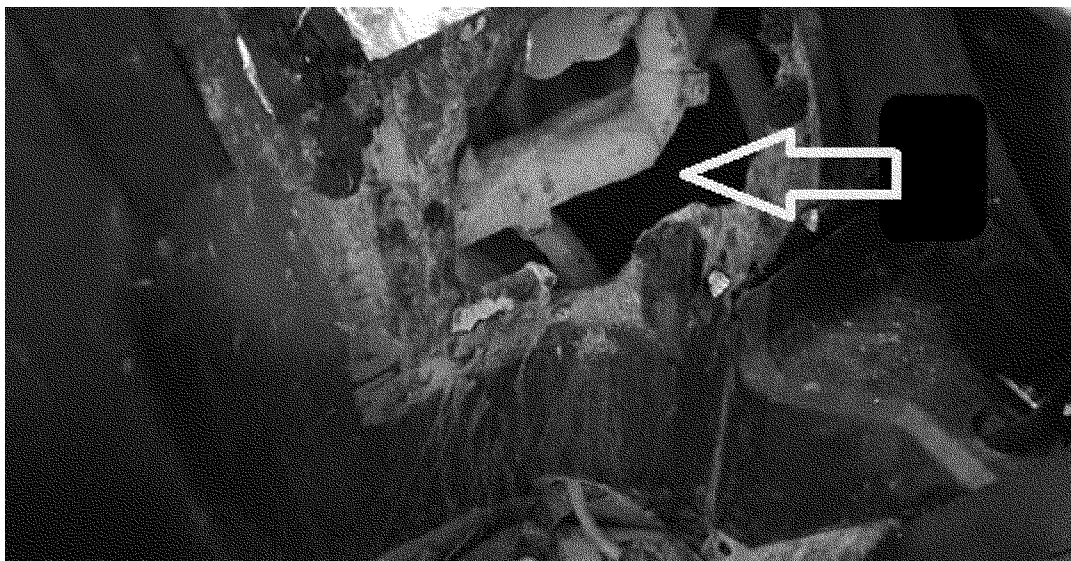


Figure 8 – Example of Fire Damage Caused by Excessive Exhaust Heat

(b) Debris-Penetration Hazard Review and Assessment

Debris-penetration hazards are unique to ROVs and UTVs because the wheel-well areas on these vehicles are generally larger and more open,

compared to ATVs. The larger space exposes more floorboard and wheel-well surface to branches that can and do penetrate into the occupant compartment. Debris penetration through the floorboard or wheel well can impale the occupants of the vehicle

and has caused severe injuries and deaths. An example of debris penetration is shown in Figure 9. CPSC staff did not find any ATV-related debris-penetration incidents in the injury/death data searches or debris-penetration recalls.

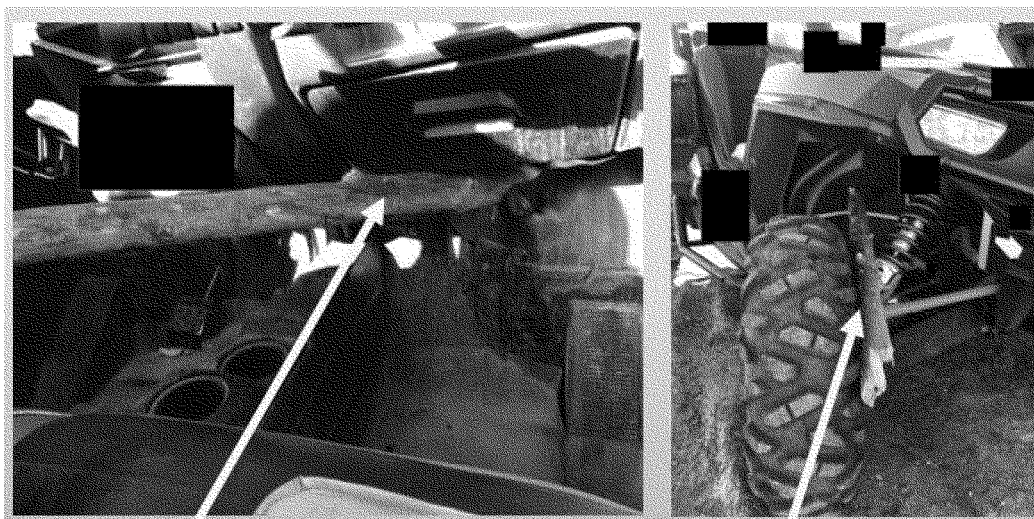


Figure 9: Example of Tree Branch (Yellow Arrows) Penetrating ROV floorboard; Left Photograph Shows View from the Cabin (Passenger Seat); Right Photograph Shows Front View of ROV

CPSC staff shared eight redacted IDIs involving debris penetration, which is a subset of the more comprehensive list of IDI data analyzed by the CPSC

Epidemiology staff, with the SDOs for review and analysis. CPSC staff's review revealed four IDIs involved fatal impalement of the occupant. A

summary of the IDI data shown in Table 6 suggests the debris penetrations occurred at relatively low speeds, *i.e.*, 25 mph or less.

TABLE 6—SUMMARIES OF EIGHT DEBRIS-PENETRATION IDIS

Vehicle	Injury type	Estimated speed, mph	Injured body part(s)	Description
A .....	Death .....	25 .....	heart .....	Consumer drove into a creek when water splashed onto the windshield; tree limb broke through the floor and struck passenger who died as a result of the impalement.
B* .....	No Injury .....	5 .....	none .....	Consumer was driving on a slight hill; rocks punctured the floorboard.
C .....	Death .....	10 .....	viscera .....	Consumer drove on a wooded trail (dirt road) with various debris (rocks and limbs); tree limb pierced fender and nylon mesh door and impaled the driver.
D** .....	Death .....	Not available .....	no information .....	Not available.
E .....	Contusion/No Medical Attention.	20 .....	abdomen .....	Consumer drove in the dark (12:30 a.m.) on a leaf covered trail; tree branch punctured driver's side floor, struck his abdomen, but did not impale the driver due to the driver wearing thick clothing.
F .....	Abrasions .....	25 .....	ankle .....	IDI involved 2 occasions—on one occasion snow was on ground, could not see branches thus a debris penetration occurred; other occasion ROV traveled on paved road and a tree branch punctured rear passenger floor.
G .....	Death .....	Not available .....	thigh .....	Not available.
H .....	Abdomen impaled ...	25 .....	Liver, stomach, spleen, pancreas.	Consumer drove on dirt/gravel road lined with 3-foot-tall grass on both sides; when attempting to avoid debris from a downed tree, a branch penetrated passenger side floor, struck passenger and impaled the driver.

\*All vehicles are ROVs, except vehicle B, which is a UTV. Vehicle B involved rocks penetrating the floorboard; all other vehicles involved tree branches penetrating the floorboards.

\*\* It is unknown whether vehicle D is an ROV or UTV due to the lack of model information.

There were four deaths and three injuries associated with debris penetration. Many of these incidents occurred when there was reduced visibility or the driver was unable to see the debris (e.g., driving in the dark, snow-covered terrain), but overall the incidents occurred during what staff considers reasonably foreseeable, normal use of the vehicles.

3. OHV Recalls

From 2002 to 2019, there were 68 OHV fire and debris-penetration hazard recalls. The fire hazard recalls involved ATVs, ROVs, and UTVs. The debris-penetration recalls involved ROVs.

CPSC recall data include the number of affected vehicles, number of incidents, and injuries associated with the recalls. An incident is considered a penetration through the floorboard, an actual fire, a fuel leak, or other thermal event (e.g., melted plastic, overheated component).

There have been 26 ATV fire hazard recalls, of which 18 involved fuel system components; 4 involved electronic control modules; 2 involved oil leaks; 1 involved brake fires due to friction; and 1 involved inadequate heat shielding. Collectively, there were 462,372 recalled vehicles, 3,325 incidents, 83 fires, and 24 injuries associated with 26 recalls from 2002 to 2018. There were no deaths associated with ATV fire hazard recalls.

With respect to ROVs, there were 33 ROV fire hazard recalls, of which 9

involved fuel system components; 3 involved electrical wiring/electrical components; 10 involved exhaust heat-inadequate heat shielding; 3 involved grass/dry vegetation debris ignition; 5 involved oil leaks; 1 involved improper throttle body installation; and 2 involved multiple sources (engine misfire, brake fires). Collectively, there were 709,886 recalled vehicles, 1,022 incidents, 327 fires, and 32 injuries associated with 33 recalls from 2008 to 2019. There was one death associated with one fire hazard recall.

There were 6 UTV fire hazard recalls; 1 involved grass/dry vegetation debris ignition; and 5 involved fuel system components. Collectively, there were 43,340 recalled vehicles, 144 incidents, and 11 fires associated with 6 recalls from 2008 to 2017. There were no injuries or deaths associated with UTV fire hazard recalls.

There were 3 ROV debris penetration hazard recalls. Collectively, there were 44,500 recalled vehicles, 630 incidents, and 9 injuries associated with three recalls from 2014 to 2016. There were no deaths associated with ROV debris penetration hazard recalls.

F. Existing Standards

1. ATVs

SVIA developed the voluntary standard for ATVs, ANSI/SVIA 1 *Four-Wheel All-Terrain Vehicles—Equipment, Configuration, and Performance Requirements standard*. SVIA published ANSI/SVIA 1 in 1990,

and revised the standard in 2001, 2007, 2010, and 2017. In 2008, the Consumer Product Safety Improvement Act (CPSIA) required the Commission to make mandatory the voluntary standard for ATVs, ANSI/SVIA 1–2007. The Commission adopted the voluntary standard as a mandatory standard; the standard is codified in 16 CFR part 1420. The Commission amended 16 CFR part 1420 in 2011 and 2018, to reference the latest revision of ANSI/SVIA 1–2010 and ANSI/SVIA 1–2017, respectively.

The requirements ANSI/SVIA 1–2017 include warning label requirements, various mechanical requirements, such as static stability, braking distances, maximum speeds for the various age group ATVs, and various component construction requirements such as those for handlebars, foot rests, suspension, and most recently, lights.

2. ROVs

The Recreational Off-Highway Vehicle Association (ROHVA) developed ANSI/ROHVA 1 *American National Standard for Recreational Off-Highway Vehicles* for recreation-oriented ROVs. The Outdoor Power Equipment Institute (OPEI) developed ANSI/OPEI B71.9 *American National Standard for Multipurpose Off-Highway Utility Vehicles* for utility-oriented vehicles; ANSI/OPEI B71.9 includes requirements for vehicles that exceed 30 mph (and thus meet CPSC's definition of "ROVs").

The ROV requirements in ANSI/ROHVA 1–2016 and ANSI/OPEI B71.9–2016 include static and dynamic stability, vehicle handling, ROPS, speed limiter function when seat belts are not fastened, and various component construction requirements such as for steering, brakes, and seat belts.

### 3. UTVs

OPEI developed ANSI/OPEI B71.9 American National Standard for utility-oriented vehicles; ANSI/OPEI B71.9 includes requirements for vehicles that exceed 30 mph (and thus meet CPSC definition of “ROVs”). For this rulemaking, the Commission defines “UTVs” to have maximum speeds below 30 mph. The UTV requirements in ANSI/OPEI B71.9–2016 for vehicles with maximum speed below 30 mph include minimum static stability, rollover protection structure (ROPS), brake configuration and performance, and lighting.

All three of these standards reference the U.S. Forest Service standard, USDA–FS 5100–1, which requires OHVs to be equipped with spark arrestors. A spark arrestor is a metal screen installed in the exhaust tail pipe to mitigate sparks exiting the tail pipe to reduce the risk of forest fires. This requirement does not address other sources of fire hazards to riders and passengers of OHVs; and thus, the Commission views this requirement as ineffective to address OHV fire hazards to consumers.

In addition, the ANSI/OPEI B71.9–2016 standard has a general requirement that “all fuel system components shall be located, routed, and contained in such a manner as to provide clearance to heat-generating components and to avoid damage from obstacles or projections that may be encountered during normal operation.” This requirement lacks specificity, and thus, the Commission views this requirement as ineffective.

The Commission does not believe the two preceding requirements adequately address the fire hazards associated with OHVs. The incident data and recall data suggest OHV fires due to fire sources, such as electrical shorts, exhaust overheat, and fuel leaks cannot be addressed by the spark arrestor requirement or the general ANSI/OPEI B71.9–2016 statement regarding fuel system component location. None of the aforementioned standards contain requirements to mitigate the debris penetration hazard. Thus, the Commission believes additional requirements are needed to address OHV fire and debris penetration hazards.

CPSC staff met with representatives of the three SDOs, ROHVA, SVIA, and OPEI on multiple occasions to discuss recall data, categorizing IDIs fire causations, and possible requirements for fuel system, electrical, and exhaust system requirements to reduce the risk of fire hazards. After discussing and categorizing fire causations of IDIs, CPSC staff and SDOs initiated discussions of possible fire preventative standards requirements starting with the fuel system component examination. However, to date, there have been no proposed fire and debris-penetration requirements to update the current ANSI/ROHVA 1–2016, ANSI/SVIA 1–2017, and ANSI/OPEI B71.9–2016 standards to address fire and debris penetration hazards. Thus, the Commission concludes that the current OHV standards will not adequately address the deaths and injuries associated with OHV fire and debris-penetration hazards.

### G. Regulatory Alternatives

The Commission could proceed with rulemaking under the CPSA establishing performance requirements and/or warnings and instructions for OHVs to address the risks of injury associated with OHV fire and debris-penetration hazards. Alternatively, the Commission could continue to address the hazards through the voluntary standards, and continue to work to develop more effective voluntary standard requirements to address the identified hazards, instead of issuing a mandatory rule. However, as previously discussed, the Commission preliminarily believes that the existing standards do not adequately address the risk of injury associated with fire and debris-penetration hazards in OHVs. The Commission has recalled OHVs for fire and debris penetration hazards. The fire hazard recalls involved ATVs, ROVs, and UTVs. The debris-penetration recalls involved ROVs. The Commission could continue to conduct recalls, both voluntary and mandatory, instead of promulgating a mandatory rule. However, recalls are not likely to be as effective at reducing the risk of injury as a mandatory standard. Recalls only apply to an individual manufacturer and product and do not extend to similar products. Product recalls occur only after consumers have purchased and used such products and have been exposed to the hazard to be remedied by the recall. Additionally, recalls can only address products that are already on the market, and cannot prevent unsafe products from entering the market. Finally, the Commission could issue news releases warning consumers about

the fire and debris-penetration hazards association with OHVs. As with recalls, this alternative is not likely to be as effective at reducing the risk of injury as a mandatory standard.

### H. Request for Information and Comments

This ANPR is the first step in a proceeding that could result in a mandatory safety standard(s) to address fire and debris-penetration hazards associated with OHVs. The Commission requests comments on all aspects of this ANPR, but specifically requests comments regarding:

1. The risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk;
2. Any existing standard or portion of a standard that could be issued as a proposed regulation;
3. A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice, along with a description of a plan (including a schedule) to do so;
4. Studies, tests, or surveys performed to analyze fire and/or debris penetration hazard injuries, including severity and costs associated with injury;
5. Studies, tests, or descriptions of technologies or design changes that address OHV fire and/or debris penetration hazard, and estimates of costs associated with incorporation of the technologies and their impact on wholesale or retail prices;
6. Information on ATV, ROV, and UTV expected lifespans and/or the number of ATVs, ROVs, and UTVs in use;
7. Information on the number of hours driven, miles driven, and/or other exposure metrics for OHVs;
8. Studies, test, or surveys performed to analyze use of aftermarket products that address OHV fire and/or debris-penetration hazards, and their effectiveness at reducing OHV fire and/or debris-penetration hazard injuries, and means by which their use by consumers could be increased;
9. Information on the expected impact of technologies or design changes that address OHV fire and/or debris-penetration hazard injuries on manufacturing costs or wholesale prices;
10. Information on the potential impact of technologies or design changes to address OHV fire and/or debris-penetration hazards on consumer utility.

Comments and other submissions should be identified by identified by Docket No. CPSC–2021–0014 and submitted in accordance with the

instructions provided above. All comments and other submissions must be received by July 12, 2021.

**Alberta A. Mills,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. 2021-09881 Filed 5-10-21; 8:45 am]

BILLING CODE 6355-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2021-0272]

RIN 1625-AA00

#### Safety Zone; Recurring Safety Zone in Captain of the Port Sault Sainte Marie Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to amend its recurring safety zone regulations in the Captain of the Port Sault Sainte Marie Zone. This proposed rule would update one safety zone location and dates. This proposed amendment action is necessary to provide for the safety of life associated with annual marine events and firework displays on these navigable waters near Mackinaw City, MI. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sault Sainte Marie 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 August 9, 2021.

**ADDRESSES:** You may submit comments identified by docket number USCG-2021-0272 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 LT Deaven Palenzuela, Chief of Waterways Management, U.S. Coast Guard; telephone 906-635-3223, email [ssmprevention@uscg.mil](mailto:ssmprevention@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 21, 2018 the Coast Guard published an NPRM in the **Federal Register** (83 FR 12307) entitled "Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone." The NPRM proposed to amend 21 permanent safety zones for annually recurring events in the Captain of the Port Sault Sainte Marie Zone under § 165.918. The NPRM was open for comment for 30 days.

On April 20, 2018 the Coast Guard published the Final Rule in the **Federal Register** (83 FR 12307), after receiving no comments on the NPRM. Since that time there have been changes to the events that were listed in the Final Rule. Through this proposed rule the Coast Guard seeks to update § 165.918 to reflect the current status of a recurring marine event in the Captain of the Port Sault Sainte Marie Zone.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 1000-yard radius of the fireworks barge 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 determines that an amendment to the recurring safety zones list as published in 33 CFR 165.918 is necessary to: Update the location and date of three existing safety zones: Mackinaw Area Visitors Bureau Friday Night Fireworks, Festivals of Fireworks Celebration Fireworks, and Mackinac Island Fourth of July Celebration Fireworks. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event and to improve the overall clarity and readability of the rule. The regulatory text we are proposing appears at the end of this document.

The amendment to this proposed rule is necessary to ensure the safety of vessels and people during annual events taking place on or near federally maintained waterways in the Captain of the Port Sault Sainte Marie Zone. Although this proposed rule will be in effect year-round, the specific safety zones listed in Table 165.918 will only be enforced during a specified period of time.

When a Notice of Enforcement for a particular safety zone is published,

entry into, transiting through, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sault Sainte Marie, or his or her designated representative. The Captain of the Port Sault Sainte Marie or his or her designated representative may be contacted via VHF Channel 16 or telephone at 906-635-3319. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

##### IV. Regulatory Analyses

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

###### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day for each safety zone. Vessel traffic will be able to safely transit around all safety zones which will impact small designated areas within the COTP zone for short durations of time. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

###### B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above,

this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

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

### E. Unfunded Mandates Reform Act

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

### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 1.5 hours that would prohibit entry within 1000 yards of a fireworks barge. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### G. Protest Activities

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

### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the

docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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

Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

### List of Subjects in 33 CFR Part 165

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

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

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.918 to read as follows:

#### § 165.918 Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 165.918 of this section:

(1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within any of the safety zones listed in this section is

prohibited unless authorized by the Captain of the Port Sault Sainte Marie, or a designated representative.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Sault Sainte Marie or a designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) When a safety zone established by this section is being enforced, all vessels must obtain permission from the Captain of the Port Sault Sainte Marie or a designated representative to enter, move within, or exit that safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Sault Sainte Marie or a designated representative. While

within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(b) *Suspension of enforcement.* If the event concludes earlier than scheduled, the Captain of the Port Sault Sainte Marie or a designated representative will issue a Broadcast Notice to Mariners notifying the public that enforcement of the respective safety zone is suspended.

(c) *Exemption.* Public vessels, defined as any vessel owned or operated by the United States or by State or local governments, operating in an official capacity are exempted from the requirements of this section.

(d) *Waiver.* For any vessel, the Captain of the Port Sault Sainte Marie or a designated representative may, at his or her discretion, waive any of the requirements of this section, upon finding that circumstances are such that application of this section is

unnecessary or impractical for the purposes of safety or environmental safety.

(e) *Contacting the Captain of the Port.* While a safety zone listed in this section is enforced, the Captain of the Port Sault Sainte Marie or a designated representative may be contacted via VHF Channel 16 or telephone at (906) 635-3319. Vessel operators given permission to enter or operate in a safety zone must comply with all directions given to them by the Captain of the Port Sault Sainte Marie, or a designated representative.

(f) *Notice of enforcement.* The Coast Guard will provide advance notice of the enforcement including specific date, time, and size of the safety zone being enforced in Table 165.918 of this section, by issuing a Notice of Enforcement, as well as, a Broadcast Notice to Mariners.

TABLE 165.918  
[Datum NAD 1983]

Event	Location	Event date
(1) Mackinaw Area Visitors Bureau Friday Night Fireworks; Mackinaw City, MI.	All U.S. navigable waters of the Straits of Mackinac within an approximate 1,000-foot radius from the fireworks launch site located in position 45°46'28" N, 084°43'12" W.	On or around July 4 and Friday nights between late May and late October.
(2) Jordan Valley Freedom Festival Fireworks; East Jordan, MI.	All U.S. navigable waters of Lake Charlevoix, near the City of East Jordan, within the arc of a circle with an approximate 1,200-foot radius from the fireworks launch site in position 45°09'18" N, 085°07'48" W.	This event historically occurs in mid to late June.
(3) Grand Marais Splash In; Grand Marais, MI.	All U.S. navigable waters within the southern portion of West Bay bound within the following coordinates: 46°40'22.08" N 085°59'0.12" W, 46°40'22.08" N, 85°58'22.08" W, and 46°40'14.64" N, 85°58'19.56" W, with the West Bay shoreline forming the South and West boundaries of the zone.	This event historically occurs mid to late June.
(4) Festivals of Fireworks Celebration Fireworks; St. Ignace, MI.	All U.S. navigable waters of East Moran Bay within an approximate 1,000-foot radius from the fireworks launch site at the end of the Starline Mill Slip, centered in position: 45°52'24.62" N, 084°43'18.13" W.	On or around July 4th and Saturday nights beginning late June to mid October.
(5) National Cherry Festival Airshow Safety Zone; Traverse City, MI.	All U.S. navigable waters of the West Arm of Grand Traverse Bay within a box bounded by the following coordinates: 44°46'51.6" N 085°38'15.6" W, 44°46'23.4" N 085°38'22.8" W, 44°46'30.00" N 085°35'42.00" W, and 44°46'2.34" N 085°35'50.4" W.	This event historically occurs late June or early July.
(6) National Cherry Festival Finale Fireworks; Traverse City, MI.	All U.S. navigable waters of the West Arm of Grand Traverse Bay within the arc of a circle with an approximate 1200-foot radius from the fireworks launch site located on a barge in position 44°46'12" N, 085°37'06" W.	This event historically occurs late June or early July.
(7) Canada Day Celebration Fireworks; Sault Sainte Marie, MI.	All U.S. navigable waters of the St. Marys River within an approximate 1,400-foot radius from the fireworks launch site, centered approximately 160 yards north of the U.S. Army Corp of Engineers Soo Locks North East Pier, at position 46°30'20.40" N, 084°20'17.64" W.	On or around July 1.
(8) Marquette Fourth of July Celebration Fireworks; Marquette, MI.	All U.S. navigable waters of Marquette Harbor within an approximate 1200-foot radius of the fireworks launch site, centered in position 46°32'23.0" N, 087°23'13.1" W.	On or around July 4th.
(9) Munising Fourth of July Celebration Fireworks; Munising, MI.	All U.S. navigable waters of South Bay within an approximate 800-foot radius from the fireworks launch site at the end of the Munising City Dock, centered in position: 46°24'50.08" N, 086°39'08.52" W.	On or around July 4th.
(10) Sault Sainte Marie Fourth of July Celebration Fireworks; Sault Sainte Marie, MI.	All U.S. navigable waters of the St. Marys River within an approximate 1000-foot radius around the eastern portion of the U.S. Army Corp of Engineers Soo Locks North East Pier, centered in position: 46°30'19.66" N, 084°20'31.61" W.	On or around July 4th.



TABLE 165.918—Continued  
[Datum NAD 1983]

Event	Location	Event date
(11) Mackinac Island Fourth of July Celebration Fireworks; Mackinac Island, MI.	All U.S. navigable waters of Lake Huron within an approximate 750-foot radius of the fireworks launch site, centered approximately 1,000 yards west of Round Island Passage Light, at position 45°50'30" N, 084°36'30" W.	On or around July 4th.
(12) Harbor Springs Fourth of July Celebration Fireworks; Harbor Springs, MI.	All U.S. navigable waters of Lake Michigan and Harbor Springs Harbor within the arc of a circle with an approximate 1,200-foot radius from the fireworks launch site located on a barge in position 45°25'30" N, 084°59'06" W.	On or around July 4th.
(13) Bay Harbor Yacht Club Fourth of July Celebration Fireworks; Petoskey, MI.	All U.S. navigable waters of Lake Michigan and Bay Harbor Lake within the arc of a circle with an approximate 750-foot radius from the fireworks launch site located on a barge in position 45°21'50" N, 085°01'37" W.	On or around July 4th.
(14) Petoskey Fourth of July Celebration Fireworks; Petoskey, MI.	All U.S. navigable waters of Lake Michigan and Petoskey Harbor, in the vicinity of Bay Front Park, within the arc of a circle with an approximate 1,200-foot radius from the fireworks launch site located in position 45°22'40" N, 084°57'30" W.	On or around July 4th.
(15) Boyne City Fourth of July Celebration Fireworks; Boyne City, MI.	All U.S. navigable waters of Lake Charlevoix, in the vicinity of Veterans Park, within the arc of a circle with an approximate 1,400-foot radius from the fireworks launch site located in position 45°13'30" N, 085°01'40" W.	On or around July 4th.
(16) Alpena Fourth of July Celebration Fireworks; Alpena, MI.	All U.S. navigable waters of Lake Huron within an approximate 1,000-foot radius of the fireworks launch site located near the end of Mason Street, South of State Avenue, at position 45°02'42" N, 083°26'48" W.	On or around July 4th.
(17) Traverse City Fourth of July Celebration Fireworks; Traverse City, MI.	All U.S. navigable waters of the West Arm of Grand Traverse Bay within the arc of a circle with an approximate 1,200-foot radius from the fireworks launch site located on a barge in position 44°46'12" N, 085°37'06" W.	On or around July 4th.
(18) Charlevoix Venetian Festival Friday Night Fireworks; Charlevoix, MI.	All U.S. navigable waters of Lake Charlevoix, in the vicinity of Depot Beach, within the arc of a circle with an approximate 1,200-foot radius from the fireworks launch site located on a barge in position 45°19'08" N, 085°14'18" W.	This event historically occurs in late July.
(19) Charlevoix Venetian Saturday Night Fireworks; Charlevoix, MI.	All U.S. navigable waters of Round Lake within the arc of a circle with an approximate 500-foot radius from the fireworks launch site located on a barge in position 45°19'03" N, 085°15'18" W.	This event historically occurs in late July.
(20) Elk Rapids Harbor Days Fireworks; Elk Rapids, MI.	All U.S. navigable waters within the arc of a circle with an approximate 750-foot radius from the fireworks launch site located on a barge in position 44°54'6.95" N, 085°25'3.11" W.	This event historically occurs in early August.
(21) Nautical City Fireworks; Rogers City.	All U.S. navigable waters within the arc of a circle with an approximate 750-foot radius from the fireworks launch site located near Harbor View Road in position 45°25'04.72" N, 083°47'51.21" W.	Early August.

Dated: April 30, 2021.

A.R. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2021-09731 Filed 5-10-21; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FF09E21000 FXES11110900000212]

#### Endangered and Threatened Wildlife and Plants; 90-Day Findings for Three Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on three petitions to add species to the Lists of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate status reviews of the Aztec gilia (*Aliciella formosa*), Clover's cactus (*Sclerocactus cloverae*), and Suckley's cuckoo bumble bee (*Bombus suckleyi*) to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the

status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act.

**DATES:** These findings were made on May 11, 2021. As we commence our status reviews, we seek any new information concerning the status of, or threats to, the species or their habitats. Any information we receive during the course of our status reviews will be considered.

**ADDRESSES:**

*Supporting documents:* Summaries of the basis for the petition findings contained in this document are available on <http://www.regulations.gov> under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available by contacting the appropriate person, as

specified in **FOR FURTHER INFORMATION CONTACT.**

*Status reviews:* If you have new scientific or commercial data or other information concerning the status of, or threats to, the species for which we are initiating status reviews, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Then, click on the

“Search” button. After finding the correct document, you may submit information by clicking on “Comment Now!” If your information will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: [Insert appropriate docket number; see table under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us.

**FOR FURTHER INFORMATION CONTACT:**

Species common name	Contact person
Aztec gilia .....	Shawn Sartorius, Field Supervisor, New Mexico Ecological Services Field Office, 505–761–4781; <a href="mailto:shawn_sartorius@fws.gov">shawn_sartorius@fws.gov</a> .
Clover’s cactus .....	Shawn Sartorius, Field Supervisor, New Mexico Ecological Services Field Office, 505–761–4781; <a href="mailto:shawn_sartorius@fws.gov">shawn_sartorius@fws.gov</a> .
Suckley’s cuckoo bumble bee .....	Sarah Conn, Project Leader, Fairbanks Fish and Wildlife Conservation Office, 907–456–0499; <a href="mailto:sarah_conn@fws.gov">sarah_conn@fws.gov</a> .

If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.*, “list” a species), remove a species from the List (*i.e.*, “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (*i.e.*, “reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the

petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

- (a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);
- (b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);
- (c) Disease or predation (Factor C);
- (d) The inadequacy of existing regulatory mechanisms (Factor D); and
- (e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term

“threat” may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act. If

we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently

complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

### Summaries of Petition Findings

The petition findings contained in this document are listed in the table below, and the basis for each finding, along with supporting information, is available on <http://www.regulations.gov> under the appropriate docket number.

TABLE—STATUS REVIEWS

Common name	Docket No.	URL to docket on <a href="http://www.regulations.gov">http://www.regulations.gov</a>
Aztec gilia .....	FWS–R2–ES–2020–0095 .....	<a href="https://www.regulations.gov/docket?D=FWS-R2-ES-2020-0095">https://www.regulations.gov/docket?D=FWS-R2-ES-2020-0095</a> .
Clover's cactus .....	FWS–R2–ES–2020–0096 .....	<a href="https://www.regulations.gov/docket?D=FWS-R2-ES-2020-0096">https://www.regulations.gov/docket?D=FWS-R2-ES-2020-0096</a> .
Suckley's cuckoo bumble bee .....	FWS–R7–ES–2020–0097 .....	<a href="https://www.regulations.gov/docket?D=FWS-R7-ES-2020-0097">https://www.regulations.gov/docket?D=FWS-R7-ES-2020-0097</a> .

#### *Evaluation of a Petition To List Aztec Gilia*

##### Species and Range

Aztec gilia (*Aliciella formosa*); New Mexico.

##### Previous Federal Actions

On June 11, 2020, we received a petition dated May 29, 2020, from WildEarth Guardians requesting that the Aztec gilia be listed as an endangered or threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

##### Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating the petitioned action may be warranted for the Aztec gilia due to potential threats associated with the following: Oil and gas development, off-road vehicle use, and livestock grazing (Factor A); predation (Factor C); and climate change (Factor E). The petition also presented substantial information that existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R2–ES–2020–0095 under the Supporting Documents section.

#### *Evaluation of a Petition To List Clover's Cactus*

##### Species and Range

Clover's cactus (*Sclerocactus cloverae*); New Mexico, Colorado.

##### Previous Federal Actions

On June 11, 2020, we received a petition dated May 29, 2020, from WildEarth Guardians requesting that the Clover's cactus be listed as an endangered or threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

##### Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating the petitioned action may be warranted for the Clover's cactus due to potential threats associated with the following: Oil and gas development, off-road vehicle use, and livestock grazing (Factor A); illegal collection (Factor B); predation (Factor C); and climate change (Factor E). The petition also presented substantial information that existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D). We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific information when making that finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R2–ES–2020–0096 under the Supporting Documents section.

#### *Evaluation of a Petition To List Suckley's Cuckoo Bumble Bee*

##### Species and Range

Suckley's cuckoo bumble bee (*Bombus suckleyi*); Alaska, California, Oregon, Washington, Idaho, Colorado,

Montana, North Dakota, South Dakota, and New York; Canada: British Columbia, Yukon, Northwest Territories, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, and Newfoundland and Labrador.

##### Previous Federal Actions

On April 23, 2020, we received a petition dated April 23, 2020, from the Center for Biological Diversity, requesting that Suckley's cuckoo bumble bee be listed as an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

##### Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating the petitioned action may be warranted for the Suckley's cuckoo bumble bee due to potential threats associated with the following: Livestock grazing and habitat loss from fire management (Factor A); disease or loss of hosts and potential host transmission (Factor C); pesticide use for bark beetle management, agricultural intensification, effects of climate change, loss of genetic diversity, and synergistic effects (Factor E). The petition also presented substantial information that existing regulatory mechanisms may be inadequate to address impacts of these threats (Factor D). We will fully evaluate these potential threats during our 12-month status review, pursuant to the Act's requirement to review the best available scientific information when making that finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can

be found as an appendix at <http://www.regulations.gov> under Docket No. FWS-R7-ES-2020-0097 under the Supporting Documents section.

#### **Conclusion**

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the petitions summarized above for Aztec gilia, Clover's cactus, and Suckley's cuckoo bumble bee present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore,

initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species.

#### **Authors**

The primary authors of this document are staff members of the Ecological

Services Program, U.S. Fish and Wildlife Service.

#### **Authority**

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

#### **Martha Williams,**

*Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2021-09707 Filed 5-10-21; 8:45 am]

**BILLING CODE 4333-15-P**

# Notices

Federal Register

Vol. 86, No. 89

Tuesday, May 11, 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

### Food and Nutrition Service

#### Agency Information Collection Activities: Pandemic Electronic Benefits Transfer

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved information collection for Pandemic Electronic Benefits Transfer (P-EBT) for the reporting burden associated with administering P-EBT.

**DATES:** Written comments must be received on or before July 12, 2021.

**ADDRESSES:** Comments may be submitted via email to Ed Harper, Director, Office of Program Integrity, Food and Nutrition Service, U.S. Department of Agriculture, Braddock Metro Center II, 1320 Braddock Place, Alexandria, VA 22314, 703-305-2340. Comments may also be submitted via email to [SM.FN.PEBT@usda.gov](mailto:SM.FN.PEBT@usda.gov). Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this information collection should be directed via email to [SM.FN.PEBT@usda.gov](mailto:SM.FN.PEBT@usda.gov).

Requests can also be directed to Ed Harper, U.S. Department of Agriculture Food and Nutrition Service, Braddock

Metro Center II, 1320 Braddock Place, Alexandria, VA 22314, 703-305-2340.

**SUPPLEMENTARY INFORMATION:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Title:* Pandemic EBT.

*Form Number:* FNS-292B, FNS-388, FNS-46, FNS-366A, and SF-425 (under OMB Control Number 0584-0594) is associated with this collection.

*OMB Number:* 0584-0660.

*Expiration Date:* August 31, 2021.

*Type of Request:* Revision of a currently approved collection.

*Abstract:* The Families First Coronavirus Response Act of 2020 (FFCRA, Pub. L. 116-127), enacted March 18, 2020, included a general provision that allows the Department of Agriculture to approve state plans to provide temporary emergency Supplemental Nutrition Assistance Program (SNAP) assistance to households with children who would otherwise receive free or reduced-price meals if not for their schools being closed due to the COVID-19 emergency (also known as Pandemic EBT, or P-EBT). The authority for P-EBT under FFCRA expired on September 30, 2020. The Continuing Appropriations Act, 2021 and Other Extensions Act (Pub. L. 116-159), enacted October 1, 2020 extended the authority for P-EBT through September 30, 2021. This legislation also expanded the program to include child care facilities affected by the closures and schools with reduced attendance hours. The Consolidated Appropriations Act, 2021 (Pub. L. 116-260), enacted December 27, 2020, provided additional eligibility requirements and State flexibilities for both school and child care components

of this program. The American Rescue Plan Act of 2021 (ARPA, Pub. L. 117-2) enacted on March 11 made several significant changes to P-EBT. Among these changes is the extension of P-EBT to the summer of 2021, school year 2021-2022, and summer 2022.

Per Public Law 116-159, and in order to operate P-EBT for Federal Fiscal Year 2021 and summer 2021, each State must submit a State plan to FNS Regional Office for approval. Once approved, in addition to administering P-EBT, each State SNAP agency will also be required to provide monthly reports via the FNS-292B (*Disaster Relief*) to the FNS Regional Office, regarding the number of eligible children receiving P-EBT benefits, number of households receiving such benefits, and the total value of the benefits. The State is expected to provide data that:

- Differentiates between non-SNAP and current SNAP households receiving P-EBT,
- within SNAP households, differentiate between base SNAP benefits and P-EBT benefits.

Each State is also expected to separately identify P-EBT participation and benefit issuance on the FNS-388 (*State Issuance and Participation Estimates*) and FNS-46 (*Issuance Reconciliation Report*) reports. There is no additional burden associated with this requirement, as the States already report participation data to FNS on the FNS-388 and FNS-46 on a monthly basis.

FNS will provide funding to each State's SNAP State agency for 100% of P-EBT-related administrative costs. Such funding will be available for the necessary, allowable, and reasonable State agency costs associated with the administration of P-EBT incurred during FY 2021. This includes administrative costs associated with the issuance of retroactive FY 2020 benefits incurred in FY 2021. States interested in the 100% funding will be expected to submit a P-EBT administrative cost plan for the intended period of operations for USDA approval using the FNS-366A (*Program and Budget Summary Statement: Budget Projection*). During the period of performance of the 100% funding, the SNAP State agency will be expected to aggregate obligation and outlay data from all State agencies utilizing the 100% funding and report quarterly to

USDA using a P-EBT specific instance of the SF-425 (*Federal Financial Report*).

The current burden for a State agency to submit FNS-292B, FNS-388, FNS-46, FNS-366A and SF-425 reports is currently captured under the information collection for the Food Programs Reporting System (FPRS), OMB Control Number 0584-0594 (expiration date 7/31/23). The Food Programs Reporting System is the Federal system State agencies use to report FNS Program data to FNS. Therefore, this information collection estimates burden hours associated with P-EBT that are above the currently approved hours in 0584-0594 for forms FNS-292B, FNS-366A, and SF-425 for normal Program operations.

In order to determine eligibility and benefit levels for P-EBT, State agencies must collect data from schools. To administer P-EBT during the school year, schools must provide the State with predominant learning model (fully virtual, hybrid, or fully in-person) used by the school for each month of the school year. States generally are collecting this information every couple of months during the school year. This information is used to determine the benefit levels children are eligible to receive. Schools that operated predominantly fully virtual or hybrid learning models must also provide a list of students that have been determined eligible for free and reduced price meals. States use these two pieces of information reported by the school to

issue benefits to eligible households. Per Public Law 117-2, during the summer months all children eligible for free or reduced price meals that are enrolled in schools that participate in the National School Lunch Program are considered eligible for P-EBT. This requires all schools to provide the State agency with a list of children who have been determined eligible for free and reduced price meals.

FNS will provide funding to each State's SNAP State agency for 100% of P-EBT-related school level administrative costs. Such funding will be available for the necessary, allowable, and reasonable State agency costs associated with the administration of P-EBT incurred during FY 2021. In order to receive this funding, schools must report to their State agency on the school level costs incurred to administer P-EBT.

Eligibility and benefit levels for the child care portion of P-EBT are determined without needing to collect additional information. State agencies use SNAP enrollment status data to determine eligibility and school learning model data they are already collecting to administer the schools component of P-EBT to determine benefit levels.

This submission seeks OMB approval of this revision to an existing collection (OMB Control # 0584-0660, expiration 8/31/2021) for activities associated with administering P-EBT.

The currently approved burden for this collection is 693,098 hours. FNS

estimates the new burden at 3,684,928 burden hours, which is an increase of approximately 2,991,831 hours.

The currently approved total annual responses are 3,320,954; we are requesting 10,379,211, which is an increase of 7,058,257 total annual responses.

*Affected Public:* State Government, Schools, Individual/Households. Respondents include State agencies (including District of Columbia, and Territories), schools, and participants.

*Estimated Number of Respondents:* The total estimated number of respondents is 675,820. This includes: State agencies (53), schools (94,767), Individuals/Households (581,000 participants).

*Estimated Number of Responses per Respondent:* The total estimated number of responses per respondent for this collection is 15.

*Estimated Total Annual Responses:* The total estimated number of annual responses for this collection is 10,379,211.

*Estimated Time per Response:* The estimated time per response averages approximately 21 minutes (0.355 hours) for all participants.

*Estimated Total Annual Burden on Respondents:* The estimated total annual burden on respondents for this collection is 3,684,928 hours.

See the table below for the estimated total annual burden for each type of respondent.

Respondent category	Instruments	Form	Number of respondents	Frequency of response	Total annual responses	Responses per respondent	Hours per response	Annual burden (hours)
Individuals/Households	P-EBT Application Submission (Schools Only).	N/A	581,000	1	581,000	1	0.166666667	96,833.33
Schools	Student Eligibility Data (School Year).	N/A	94,767	4	379,068	4	1.5	568,602.00
	Student Eligibility Data (Summer).	N/A	94,767	1	94,767	1	0.5	47,383.50
	P-EBT Local Level Administrative Cost Reporting to State.	N/A	94,767	1	94,767	1	1	94,767.00
Schools Subtotal			94,767	2	568,602	6	1	710,752.50
State Agencies	State Plan Submission—P-EBT (Schools + Child Care For School Year).	N/A	53	1	53	1	1	53.00
	State Plan Submission—P-EBT (Schools + Child Care For Summer).	N/A	53	1	53	1	1	53.00
	P-EBT Household Eligibility Determination (Schools + Child Care).	N/A	53	1	8,660,000	163,396	0.25	2,165,000.00
	Monthly P-EBT Reporting to FNS (Schools + Child Care).	FNS-292B	53	12	636	12	1	636.00

Respondent category	Instruments	Form	Number of respondents	Frequency of response	Total annual responses	Responses per respondent	Hours per response	Annual burden (hours)
	P–EBT Administrative Cost Plan (100% funding) (Schools + Child Care).	FNS–366A	53	1	53	1	12	636.00
	P–EBT Quarterly Administrative Cost Report (100% funding) (Schools + Child Care).	SF–425 ....	53	4	212	4	1	212.00
SA Subtotal .....	.....	.....	53	163,415.226	8,661,007	163,415	0.250	2,166,590.00
Grand Total ..	.....	.....	675,820	15.358	10,379,211	15	0.355	3,684,928.33

**Cynthia Long,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 2021–09916 Filed 5–10–21; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–126, C–570–127]

#### Certain Non-Refillable Steel Cylinders From the People’s Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty and Countervailing Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on certain non-refillable steel cylinders (non-refillable cylinders) from the People’s Republic of China (China). In addition, Commerce is amending its AD final determination to correct for certain ministerial errors.

**DATES:** Applicable May 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** Katherine Sliney at (202) 482–2437 (AD) and Kristen Johnson at 202–482–4793 (CVD), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on March 22, 2021, Commerce published its affirmative final determination of sales at less than fair value (LTFV) and its affirmative final determination that countervailable subsidies are being provided to

producers and exporters of non-refillable cylinders from China.<sup>1</sup>

On March 17, 2021 and March 22, 2021, Commerce received allegations that Commerce made ministerial errors in the *AD Final Determination* from Hangzhou JM Chemical Co., Ltd. (Hangzhou JM), Ningbo Eagle Machinery & Technology Co., Ltd. (Ningbo Eagle), and Wuyi Xilinde Machinery Manufacture Co., Ltd. (Wuyi Xilinde).<sup>2</sup> After reviewing the allegations, we determine that the *AD Final Determination* included certain ministerial errors and, therefore, we made appropriate changes, as described below in the “Amendment to AD Final Determination” section of this notice.

On May 5, 2021, pursuant to sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of LTFV imports and subsidized imports of non-refillable cylinders from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.<sup>3</sup>

#### Scope of the Orders

The products covered by these orders are non-refillable cylinders from China.

<sup>1</sup> See *Non-Refillable Steel Cylinders from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 15188 (March 22, 2021) (*AD Final Determination*); see also *Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 86 FR 15192 (March 22, 2021) (*CVD Final Determination*).

<sup>2</sup> See Hangzhou JM’s Letter, “Hangzhou JM Clerical Error Comments in the Final Determination including Customs Instructions: Antidumping Duty Investigation of Certain Non-Refillable Cylinders from the People’s Republic of China (A–570–126),” dated March 17, 2021; see also Ningbo Eagle’s Letter, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Ministerial Error Comment,” dated March 22, 2021; and Wuyi Xilinde’s Letter, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Allegation of Ministerial Error in the Final Determination,” dated March 22, 2021.

<sup>3</sup> See ITC’s Letter, “Notification of ITC Final Determinations,” dated May 5, 2021 (ITC Notification Letter).

For a full description of the scope of the orders, see the appendix to this notice.

#### Amendment to AD Final Determination

A ministerial error is defined in 19 CFR 351.224(f) as “an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.” Pursuant to 19 CFR 351.224(f), and as explained further in the Ministerial Error Memorandum,<sup>4</sup> Commerce is amending the *AD Final Determination* to reflect the correction of ministerial errors made in the calculations performed for the *AD Final Determination*, as alleged by Ningbo Eagle, and Wuyi Xilinde. Correction of these errors, as well as a related error identified by Commerce, resulted in changes to the final estimated weighted-average dumping margin calculated for Wuyi Xilinde, the rate applicable to the separate rate companies, including Ningbo Eagle, and changes the companies’ corresponding cash deposit rates.<sup>5</sup> Further, Commerce is amending the *AD Final Determination* to reflect the correction of a clerical error made in identifying the incorrect producer

<sup>4</sup> See Memorandum, “Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Allegations of Ministerial Errors in the Final Affirmative Determination of Sales at Less Than Fair Value,” dated April 15, 2021 (Ministerial Error Memorandum).

<sup>5</sup> See Memorandum, “Antidumping Duty Investigation of Certain Non-Refillable Steel Cylinders from the People’s Republic of China: Amended Final Results Margin Calculation for Wuyi Xilinde Machinery Manufacture Co., Ltd.,” dated concurrently with this notice; see also Memorandum, “Non-Refillable Steel Cylinders from the People’s Republic of China: Amended Double Remedies and Export Subsidy Offset Calculation,” dated April 15, 2021, and Memorandum, “Non-Refillable Steel Cylinders from the People’s Republic of China: Amended Double Remedies and Export Subsidy Offset Calculation Excel File,” dated April 21, 2021 (both of these submissions contained a clerical error with respect to the China-wide rate, which remains unchanged from the *Final Determination*, and were later corrected); and Memorandum, “Amended Double Remedies and Export Subsidy Offset Calculation, dated April 23, 2021.

corresponding to the exporter Hangzhou JM, and identifies the correct producer, Wuyi Xilinde, in the combination rates for subject merchandise exported by Hangzhou JM listed below.

**AD Order**

As stated above, on May 5, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of non-refillable cylinders from China that are sold in the United States at LTFV.<sup>6</sup> Therefore, in accordance with section 735(c)(2) of the Act, we are issuing this AD order. Because the ITC determined that imports of non-refillable cylinders from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China entered, or withdrawn from warehouse, for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce intends to direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of non-refillable cylinders from China. Antidumping duties will be assessed on unliquidated entries of non-refillable cylinders from China entered, or withdrawn from warehouse, for consumption on or after October 30, 2020, the date of publication of the *AD Preliminary Determination*, but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.<sup>7</sup>

**Continuation of Suspension of Liquidation—AD**

Except as noted in the “Provisional Measures—AD” section of this notice,

in accordance with section 735(c)(1)(B) of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of non-refillable cylinders from China. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the table below, adjusted by the relevant subsidy offsets. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP must require, at the same time as importers would normally deposit estimated customs duties on subject merchandise, a cash deposit equal to the rates listed in the table below.

**Estimated Weighted-Average Dumping Margins**

The estimated weighted-average dumping margins are as follows:

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Sanjiang Kai Yuan Co. Ltd .....	Sanjiang Kai Yuan Co. Ltd .....	93.09	76.82
Wuyi Xilinde Machinery Manufacture Co., Ltd .....	Wuyi Xilinde Machinery Manufacture Co., Ltd .....	74.32	63.55
Hangzhou JM Chemical Co., Ltd .....	Wuyi Xilinde Machinery Manufacture Co., Ltd .....	79.98	67.61
Ningbo Eagle Machinery & Technology Co., Ltd .....	Jinhua Sinoblue Machinery Manufacturing Co., Ltd .....	79.98	67.76
Zhejiang Kin-Shine Technology Co., Ltd .....	Zhejiang Kin-Shine Technology Co., Ltd .....	79.98	67.61
T.T. International Co. Ltd .....	Wuyi Xilinde Machinery Manufacture Co., Ltd .....	79.98	67.61
ICOOL International Commerce Limited .....	ICOOL International Commerce Limited .....	79.98	67.61
China-Wide Entity .....	China-Wide Entity .....	112.21	101.67

**Provisional Measures—AD**

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of non-refillable cylinders from China, Commerce extended the four-month period to six months in this AD investigation. Commerce published the *AD Preliminary Determination* in this investigation on October 30, 2020.<sup>8</sup>

The extended provisional measures period, beginning on the date of publication of the preliminary determination, ended on April 27, 2021. Therefore, in accordance with section 733(d) of the Act and our practice, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of non-refillable cylinders from China entered, or withdrawn from warehouse, for consumption after April 27, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash

deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

**CVD Order**

As stated above, on May 5, 2021, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that the industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of non-refillable cylinders from China.<sup>9</sup> Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Because the ITC determined that imports of non-refillable cylinders from China are materially injuring a U.S. industry, unliquidated entries of subject

<sup>6</sup> See ITC Notification Letter.

<sup>7</sup> See *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than*

*Fair Value, Postponement of the Final Determination and Extension of Provisional Measures*, 85 FR 68852 (October 30, 2020) (*AD Preliminary Determination*).

<sup>8</sup> See *AD Preliminary Determination*.

<sup>9</sup> See ITC Notification Letter.



merchandise from China entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce intends to direct CBP to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of non-refillable cylinders from China, which are entered, or withdrawn from warehouse, for consumption on or after August 28, 2020, the date of publication of the *CVD Preliminary Determination*, but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described in the "Provisional Measures—CVD" section of this notice.<sup>10</sup>

**Suspension of Liquidation and Cash Deposits—CVD**

In accordance with section 706 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of non-refillable cylinders from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated customs duties on this merchandise, a cash deposit equal to the rates listed in the table below. These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed below, as appropriate:

Company	Subsidy rate (percent)
Ningbo Eagle Machinery & Technology Co., Ltd .....	25.91
Wuyi Xilinde Machinery Manufacturing Co., Ltd .....	18.37
All Others .....	21.28
Jiangsu Kasidi Chemical Machinery Co., Ltd .....	186.18

<sup>10</sup> See *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 85 FR 53323 (August 28, 2020) (*CVD Preliminary Determination*).

Company	Subsidy rate (percent)
Jinhua Sinoblu Machinery Manufacturing Co., Ltd .....	186.18
Ningbo Runkey CGA Cylinders Co., Ltd .....	186.18
Ninhua Group Co., Ltd .....	186.18
Shanghai Ronghua High-Pressure Vessel Co., Ltd .....	186.18
Zhejiang Ansheng Mechanical Manufacture Co., Ltd .....	186.18
Zhejiang Nof Chemical Co., Ltd .....	186.18

**Provisional Measures—CVD**

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the *CVD Preliminary Determination* on August 28, 2020.<sup>11</sup> As such, the four-month period beginning on the date of the publication of the *CVD Preliminary Determination* ended on December 25, 2020.

Therefore, in accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of non-refillable cylinders from China entered, or withdrawn from warehouse, for consumption, on or after December 26, 2020, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

**Notification to Interested Parties**

This notice constitutes the AD and CVD orders with respect to non-refillable cylinders from China pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

These orders are published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: May 6, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

**Appendix**

**Scope of the Orders**

The merchandise covered by these orders is certain seamed (welded or brazed), non-refillable steel cylinders meeting the

<sup>11</sup> See *CVD Preliminary Determination*.

requirements of, or produced to meet the requirements of, U.S. Department of Transportation (USDOT) Specification 39, TransportCanada Specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 300-cubic inch (4.9 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and unfilled at the time of importation. Non-refillable steel cylinders filled with pressurized air otherwise meeting the physical description above are covered by these orders.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to these orders is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also enter under HTSUS statistical reporting numbers 7310.29.0025 and 7310.29.0050. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2021-09942 Filed 5-10-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-909]

**Certain Steel Nails From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2019–2020**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that certain companies made sales of subject merchandise at less than normal value. The period of review (POR) is August 1, 2019, to July 31, 2020. Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable May 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joshua Simonidis, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0608.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 6, 2020, Commerce initiated an administrative review on the antidumping duty order on certain steel nails (nails) from the People's Republic of China (China) covering the period August 1, 2019, to July 31, 2020 with respect to 457 companies.<sup>1</sup> Based on the timely withdrawal of review requests, we rescinded the administrative review with respect to five companies pursuant to 19 CFR 351.213(d)(1) and (4).<sup>2</sup> Therefore, the results of this review cover the remaining 452 companies.

## Scope of the Order

The products covered by the *Order* are nails from China. For a complete description of the scope, see the Preliminary Decision Memorandum.<sup>3</sup>

## 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 Determination 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/index.html>. A list of topics included in the Preliminary Decision Memorandum is provided as an appendix to this notice.

## Preliminary Determination of No Shipments

Based on our analysis of U.S. Customs and Border Protection (CBP) information and information provided by a number of companies, we

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 63081 (October 6, 2020) (*Initiation Notice*).

<sup>2</sup> The five companies for which the review was rescinded are: Oriental Cherry Hardware Group, Ltd.; Youngwoo Fasteners Co., Ltd.; China Staple Enterprise Co., Ltd.; Faithful Engineering Products Co., Ltd.; and Promising Way (Hong Kong) Ltd. See *Certain Steel Nails from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review; 2019–2020*, 86 FR 7065 (January 26, 2021).

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Certain Steel Nails from the People's Republic of China; 2019–2020," issued concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

preliminarily determine that 21 companies under review did not have any shipments of subject merchandise during the POR.<sup>4</sup> For additional information regarding this determination, see the Preliminary Decision Memorandum.

Consistent with our practice, we are not rescinding this review with respect to these companies but, instead, intend to complete the review and issue appropriate instructions to CBP based on the final results of the review.<sup>5</sup>

## 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 China-wide entity.<sup>6</sup> Because no party requested a review of the China-wide entity in this review, the China-wide entity is not under review and the weighted-average dumping margin for the China-wide entity is not subject to change (*i.e.*, 118.04 percent).<sup>7</sup>

## Preliminary Results of Review

Commerce finds that the two mandatory respondents, Qingdao D&L Group Ltd. (Qingdao D&L) and Shanghai Yueda Nails Industry Co., Ltd., a.k.a. Shanghai Yueda Nails Co. (Shanghai Yueda), have not established their eligibility for a separate rate and are to be considered part of the China-wide entity for these preliminary results. Furthermore, because 427 additional companies did not submit separate rate applications or certifications, or no-shipment certifications, we preliminarily determine they are ineligible for a separate rate as well and are part of the China-wide entity. See Appendix I of the Preliminary Decision Memorandum for a full list of

<sup>4</sup> These companies are: Astrotech Steels Private Limited; Dezhou Hualude Hardware Products Co., Ltd.; Geekay Wires Limited; Hebei Minmetals Co., Ltd.; Mingguang Ruifeng Hardware Products Co., Ltd.; Nanjing Caiqing Hardware Co., Ltd.; Nanjing Yuechang Hardware Co., Ltd.; Region Industries Co., Ltd.; Region System Sdn. Bhd; Schenker China Ltd Chengdu Branch; Schenker China Ltd.; SDC International Aust. Pty. Ltd.; Shandong Qingyun Hongyi Hardware Products Co., Ltd.; Shanxi Hairui Trade Co., Ltd.; Shanxi Pioneer Hardware Industrial Co., Ltd.; Shanxi Yuci Broad Wire Products Co., Ltd.; S-Mart (Tianjin) Technology Development Co., Ltd.; Suntec Industries Co., Ltd.; Tianjin Jinchi Metal Products Co., Ltd.; Tianjin Jinghai County Hongli Industry & Business Co., Ltd.; and Xi'an Metals & Minerals Import & Export Co., Ltd.

<sup>5</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694–95 (October 24, 2011) (*NME Assessment of Duties*).

<sup>6</sup> *Id.*

<sup>7</sup> The China-wide rate determined in the investigation was 118.04 percent. See *Notice of Antidumping Duty Order: Certain Steel Nails from the People's Republic of China*, 73 FR 44961 (August 1, 2008) (*Order*).

companies that are part of the China-wide entity.

The statute and Commerce's regulations do not address what rate to apply to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis*, or based entirely on facts available, Commerce may use "any reasonable method" for assigning a rate to non-examined respondents.

However, for these preliminary results, we have not calculated any individual rates or assigned a rate based on facts available. Therefore, consistent with our recent practice, we preliminarily determine to assign to the non-individually examined separate rate respondents the most recently assigned separate rate in this proceeding, which is from the previous administrative review.<sup>8</sup> Using this method, we are preliminarily assigning a separate rate margin of 41.75 percent to the two non-individually examined companies, Shanghai Curvet Hardware Products Co., Ltd. and Tianjin Zhonglian Metals Ware Co., Ltd., that demonstrated their eligibility for a separate rate.

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the period August 1, 2019, to July 31, 2020:

<sup>8</sup> See, e.g., *Shenzhen Xinboda Industrial Co., Ltd., v. United States*, Court No. 15–00179, Slip Op. (CIT 2016); see also *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Rescission of Antidumping Duty Administrative Review, in Part; 2015–2016*, 82 FR 21189, 21192 (May 5, 2017), unchanged in *Certain Steel Threaded Rod from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016*, 82 FR 51611 (November 7, 2017); and *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2014–2015*, 81 FR 64131, 64133 (September 19, 2016), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2014–2015*, 82 FR 15181 (March 27, 2017).

Exporter	Estimated weighted-average dumping margin (percent)
Shanghai Curvet Hardware Products Co., Ltd .....	41.75
Tianjin Zhonglian Metals Ware Co., Ltd .....	41.75

### Disclosure and Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.<sup>9</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.<sup>10</sup> 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 authorities.<sup>11</sup> Case and rebuttal briefs should be filed using ACCESS.<sup>12</sup>

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.<sup>13</sup> 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, parties will be notified of the time and date for the hearing to be held.<sup>14</sup> An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>15</sup>

Unless otherwise extended, 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, within 120 days of the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.<sup>16</sup> If the preliminary results are unchanged for the final results, we will instruct CBP to apply an *ad valorem* assessment rate of 118.04 percent to all entries of subject merchandise during the POR which were exported by 429 companies, including Qingdao D&L and Shanghai Yueda, in the China-wide entity. If Commerce continues to make a no-shipment finding in the final results for the 21 companies referenced in the "Preliminary Determination of No Shipments" section above, any suspended entries of subject merchandise associated with those companies will also be liquidated at the China-wide rate. For the two companies receiving a separate rate, we intend to assign an assessment rate of 41.75 percent, consistent with the methodology described above.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that rate established in the final results of this review (except, if the rate is zero or *de minimis*, then a cash deposit rate of zero will be established for those companies); (2) for previously investigated or reviewed Chinese and non-Chinese exporters of subject merchandise not listed above

that continue to be eligible for a separate rate based on a completed prior segment of this proceeding, the cash deposit rate will continue to be that existing cash deposit rate published for the most recently completed period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, including Qingdao D&L and Shanghai Yueda, the cash deposit rate will be 118.04 percent, the weighted-average dumping margin for the China-wide entity from the less-than-fair-value investigation; and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of any antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

### Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1).

Dated: May 3, 2021.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiation.*

### Appendix I

#### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Preliminary Determination of No Shipments
- V. Discussion of the Methodology
- VI. Recommendation

[FR Doc. 2021-09941 Filed 5-10-21; 8:45 am]

**BILLING CODE 3510-DS-P**

<sup>9</sup> See 19 CFR 351.309(c).

<sup>10</sup> See 19 CFR 351.309(d); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020), and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID 19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

<sup>11</sup> See 19 CFR 351.309(c)(2).

<sup>12</sup> See 19 CFR 351.303.

<sup>13</sup> See 19 CFR 351.310(c).

<sup>14</sup> See 19 CFR 351.310(d).

<sup>15</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements); and *Temporary Rule*.

<sup>16</sup> See 19 CFR 351.212(b)(1).

## DEPARTMENT OF COMMERCE

## International Trade Administration

**North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Review: Notice of Request for Panel Review; Correction**

**AGENCY:** United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Commerce published a document in the **Federal Register** of May 3, 2021, in which it announced the Binational Panel issuing its Interim Decision and Order in the matter of Large Residential Washers from Mexico. That document incorrectly stated that the Notice was for a Request for Panel Review, as well as incorrectly stating the date of issuance of the Interim Decision.

**FOR FURTHER INFORMATION CONTACT:** Paul E. Morris, United States Secretary, NAFTA Secretariat, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:****Corrections**

In the **Federal Register** of May 3, 2021, in FR Doc. 2021-09199, on page 23344, in the third column, the title of the document incorrectly states "Request for Panel Review". The correct title is "Interim Panel Decision".

In the **Federal Register** of May 3, 2021, in FR Doc. 2021-09199, on page 23345, in the first column in the **SUMMARY** section, the date of issuance of the Interim Decision and Order incorrectly states April 26, 2019. The correct date of issuance is April 26, 2021.

Dated: May 5, 2021.

**Paul E. Morris,**

*U.S. Secretary, NAFTA Secretariat.*

[FR Doc. 2021-09874 Filed 5-10-21; 8:45 am]

**BILLING CODE 3510-GT-P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

[C-533-864]

**Certain Corrosion-Resistant Steel Products From India: Notice of Court Decision Not in Harmony With the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On April 29, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Uttam Galva Steels Limited v. United States*, Court no. 19-00044, sustaining the Department of Commerce (Commerce)'s second remand results pertaining to the administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from India covering the period November 6, 2015, through December 31, 2016. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Uttam Galva Steels Limited/ Uttam Value Steels Limited/Uttam Galva Metallics Limited (collectively, Uttam Galva).

**DATES:** Applicable May 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** Justin Neuman, 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) 482-0486.

**SUPPLEMENTARY INFORMATION:****Background**

On March 25, 2019, Commerce published its *Final Results* in the 2015-2016 CVD administrative review of CORE from India.<sup>1</sup> Commerce found that Uttam Galva failed to properly report its affiliation with Lloyds Steels Industry Limited (LSIL).<sup>2</sup> Therefore, Commerce applied total adverse facts available (AFA) pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act) to Uttam Galva.<sup>3</sup>

<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from India: Final Results of Countervailing Duty Administrative Review; 2015-2016*, 84 FR 11053 (March 25, 2019) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

<sup>2</sup> See *Final Results* IDM at Comment 4.

<sup>3</sup> *Id.* Commerce found, as AFA, that LSIL was cross-owned with Uttam Galva.

Commerce constructed an AFA rate by selecting the highest calculated rate for the identical, or a similar/comparable, program for each of the subsidy programs under review.<sup>4</sup>

Uttam Galva appealed Commerce's *Final Results* with respect to the application of AFA and Commerce's construction of the total AFA rate. On February 6, 2020, the CIT remanded the *Final Results* to Commerce, sustaining Commerce's decision to apply AFA to Uttam Galva for failing to disclose its affiliation with LSIL and granting Commerce's request for a voluntary remand to reconsider the rate assigned to the Market Access Initiative Program and four additional programs.<sup>5</sup> The CIT directed Commerce to consider Uttam Galva's argument that 20 other subsidy programs should not be included in the total AFA rate and to further explain its rate selections.<sup>6</sup>

In its First Remand Redetermination, issued in May 2020, Commerce adjusted Uttam Galva's total AFA rate to reflect the modifications for the five programs that were the subject of its voluntary remand request and continued to find that the other 20 programs were properly included in the AFA rate.<sup>7</sup> Specifically, Commerce modified the AFA rate for the Market Access Initiative program from 16.63 percent to 6.06 percent and removed the following programs from Uttam Galva's total AFA rate: (1) The Provision of Hot-Rolled Steel for Less Than Adequate Remuneration; (2) State Government of Uttar Pradesh (SGUP) Exemption from Entry Tax for the Iron and Steel Industry; (3) SGUP Long-Term Interest Free Loans Equivalent to the Amount of Value-Added Tax and Central Sales Tax Paid; and (4) SGUP's Interest Free Loans under the SGUP Development Promotion Rules 2003.

The CIT remanded for a second time, sustaining Commerce's determination to include the 20 disputed programs in Uttam Galva's AFA rate calculation, and instructing Commerce to further explain its decision to apply total AFA to Uttam Galva in this review for Uttam Galva's failure to properly report its affiliation with LSIL when Commerce applied partial AFA to respondent JSW Steel Limited (JSW) in the investigation of

<sup>4</sup> *Id.*

<sup>5</sup> See *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-15 (CIT February 6, 2020).

<sup>6</sup> *Id.* at 13-14.

<sup>7</sup> See *Final Results of Redetermination Pursuant to Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-15 (CIT February 6, 2020), dated May 6, 2020 (First Remand Redetermination) at 27.

this proceeding for JSW's failure to properly report an affiliate.<sup>8</sup>

In its Second Remand Redetermination, issued in December 2020, Commerce explained that application of total AFA to Uttam Galva is warranted in this review and consistent with Commerce's total AFA practice.<sup>9</sup> The application of partial AFA to JSW was based on a distinct set of facts and, although the application of AFA to JSW was similarly based on the company respondent's failure to properly report an affiliated entity, it is not determinative of the treatment of

Uttam Galva in this segment because the circumstances surrounding the AFA determinations for each company were different.<sup>10</sup> The CIT sustained Commerce's final redetermination.<sup>11</sup>

**Timken Notice**

In its decision in *Timken*,<sup>12</sup> as clarified by *Diamond Sawblades*,<sup>13</sup> the Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend

liquidation of entries pending a "conclusive" court decision. The CIT's April 29, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

**Amended Final Results**

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Uttam Galva as follows:

Manufacturer/exporter	Subsidy rate (percent <i>ad valorem</i> )
Uttam Galva Steels Limited/Uttam Value Steels Limited/Uttam Galva Metallics Limited/Lloyds Steels Industry Limited .....	554.26

**Cash Deposit Requirements**

Commerce will issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP).

**Liquidation of Suspended Entries**

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Uttam Galva at the subsidy rate listed above in accordance with 19 CFR 351.212(b).

**Notification to Interested Parties**

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 6, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2021-09943 Filed 5-10-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**COMMODITY FUTURES TRADING COMMISSION**

**Agency Information Collection Activities: Notice of Intent To Extend Information Collection 3038-0115, Reparations Complaint, CFTC Form 30**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act ("PRA"), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the collection of information relating to the CFTC Reparations Complaint Process, pursuant to the Commission's regulations under the Commodity Exchange Act ("CEA").

**DATES:** Comments must be submitted on or before July 12, 2021.

**ADDRESSES:** You may submit comments, identified by "OMB Control No. 3038-0115" by any of the following methods:

- The Agency's website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be

submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Eugene Smith, Director, Office of Proceedings, Commodity Futures Trading Commission, (202) 418-5371; email: [esmith@cftc.gov](mailto:esmith@cftc.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of Information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing a proposed notice to extend the existing collection of information listed below. 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.

*Title:* Reparations Complaint, CFTC Form 30 (OMB Control No. 3038-0115).

<sup>8</sup> See *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-151 (CIT October 29, 2020).

<sup>9</sup> See Final Results of Redetermination Pursuant to *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 20-151 (CIT October

29, 2020), dated December 22, 2020 (Second Remand Redetermination).

<sup>10</sup> *Id.*

<sup>11</sup> See *Uttam Galva Steels Limited v. United States*, Court No. 19-00044, Slip Op. 21-48 (CIT April 29, 2021).

<sup>12</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>13</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

This is a request for an extension of a currently approved information collection.

**Abstract:** Pursuant to Section 14 of the Commodity Exchange Act, members of the public may apply to the Commission to seek damages against Commission registrants for alleged violations of the Act and/or Commission regulations. The legislative intent of the Reparations program was to provide a low-cost, speedy, and effective forum for the resolution of customer complaints and to sanction individuals and firms found to have violated the Act and/or any regulations.

In 1984, the Commission promulgated Part 12 of the Commission regulations to administer Section 14. Rule 12.13 provides the standards and procedures for filing a Reparations complaint. Specifically, subparagraph (b) describes the form and content requirements of a complaint. CFTC Form 30 mirrors the requirements set forth in subparagraph (b).

The Commission began utilizing Form 30 in or about 1984. The form was created to assist customers, who are typically *pro se* and non-lawyers. It was also designed as a way to provide proper notice to respondents of the charges against them. This form is critical to fulfilling this policy goal.<sup>1</sup>

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition

<sup>1</sup> The Commission plans to update its rules to include a web-based version of Form 30 in 2021 as an additional option for the public to submit reparations complaints online.

for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.<sup>2</sup>

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**Burden Statement:** The respondent burden for this collection is estimated to be as follows:

**Respondents/Affected Entities:** Commodity futures customers.

**Estimated Number of Respondents:** 24.

**Estimated Average Burden Hours per Respondent:** 1.5.

**Estimated Total Annual Burden Hours:** 36.

**Frequency of Collection:** As applicable.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: May 5, 2021.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2021-09894 Filed 5-10-21; 8:45 am]

**BILLING CODE 6351-01-P**

## DEPARTMENT OF EDUCATION

[Docket No.: ED-2021-SCC-0072]

### Agency Information Collection Activities; Comment Request; Maintenance-of-Effort Requirements and Waiver Requests Under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a revision of a currently approved collection.

<sup>2</sup> 17 CFR 145.9.

**DATES:** OMB approved this information collection under emergency processing on April 19, 2021. A regular clearance process is also hereby being initiated. Interested persons are invited to submit comments on or before July 12, 2021.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2021-SCC-0072. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202-8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Britt Jung, 202-453-6046.

**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:* Maintenance-of-Effort Requirements and Waiver Requests under the Elementary and Secondary School Emergency Relief (ESSER) Fund and the Governor's Emergency Education Relief (GEER) Fund.

*OMB Control Number:* 1810-0745.

*Type of Review:* A revision of a currently approved collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments *Total Estimated Number of Annual Responses:* 81.

*Total Estimated Number of Annual Burden Hours:* 358.

*Abstract:* The Department is requesting an emergency approval for a revision of the OMB approved CARES Act Maintenance of Effort (MOE) collection under OMB control number 1810-0745. In recognition of the immense challenges facing students, educators, staff, schools, LEAs, and SEAs right now, Congress has made additional ESSER and GEER funds available to SEAs and LEAs to prevent, prepare for, and respond to COVID-19 through the CRRSA Act and, most recently and significantly, the ARP Act. It is critical that States and Governors receive clear guidance on the MOE requirements under the CRRSA Act and the ARP Act to inform their spending decisions and implementation plans for the GEER and ESSER programs as SEAs and LEAs prepare to help schools return safely to in-person instruction, maximize in-person instructional time, sustain the safe operation of schools, and address the academic, social, emotional, and mental health impacts of the COVID-19 pandemic. This guidance and the associated collection provide States and Governors clear guidance they need to fully implement their GEER and ESSER programs. States and Governors have delayed distributing and spending funds due to the absence of guidance on the process for requesting waivers of MOE. Additionally, the Department will not be able to properly monitor GEER and ESSER recipients or provide technical assistance without collecting the MOE data and, when requested by States, grant MOE waiver requests.

*Additional Information:* If this collection is not allowed to proceed, States and Governors will not have the

clear guidance they need to fully implement their GEER and ESSER programs. States and Governors have delayed distributing and spending funds due to the absence of guidance on the process for requesting waivers of MOE. Additionally, the Department will not be able to properly monitor GEER and ESSER recipients or provide technical assistance without collecting the MOE data and, when requested by States, grant MOE waiver requests.

Dated: May 6, 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. 2021-09953 Filed 5-10-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 77-306]

#### **Pacific Gas and Electric Company; 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. *Application Type:* Application for Temporary Variance of Flow Requirements.
- b. *Project No:* 77-306.
- c. *Date Filed:* April 23, 2021.
- d. *Applicant:* Pacific Gas and Electric Company (licensee).
- e. *Name of Project:* Potter Valley Hydroelectric Project.
- f. *Location:* The project is located on the Eel River and East Branch Russian River in Lake and Mendocino counties, California.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.
- h. *Applicant Contact:* Ms. Jackie Pope, License Coordinator, Pacific Gas and Electric Company, Mail Code: N11D, P.O. Box 770000, San Francisco, CA 94177, Phone: (530) 254-4007.
- i. *FERC Contact:* John Aedo, (415) 369-3335, [john.aedo@ferc.gov](mailto:john.aedo@ferc.gov).
- j. *Deadline for filing comments, motions to intervene, and protests:* June 4, 2021.

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/docs-filing/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](mailto: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 the docket number P-77-306. 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 particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee requests a temporary variance of the minimum flow requirement in the East Branch Russian River and the maximum irrigation releases to the Potter Valley Irrigation District (PVID). The licensee states that due to current drought conditions and operating restrictions, the storage in Lake Pillsbury is severely depleted and is expected to reach critical levels later in the summer, whereby bank sloughing in the vicinity of the outlet works and impaired flow releases may occur. Therefore, in order to conserve water and ensure project operability, the licensee is proposing to reduce minimum flow releases to the East Branch Russian River from the current dry water year requirement of 25 cubic feet per second (cfs) to a critically dry water year requirement of 5 cfs. The licensee also requests Commission approval to decrease its license-required maximum release to PVID of 50 cfs to the exceptionally low water year maximum release of 25 cfs through October 15, 2021.

The licensee also requests that compliance with the minimum flow requirement in the East Branch Russian River be temporarily adjusted to a target flow and that compliance with the adjusted maximum diversion be temporarily adjusted to a demand-based allotment, with compliance based on a cumulative diversion allotment of 9,000 acre-feet (which would equate to the alternative 25 cfs maximum diversion). Following the conclusion of the irrigation season on October 16, the licensee would continue to provide demand-based water deliveries to PVID, but they would be limited to an average of 3 cfs. The licensee requests that the drought-related variance conclude when Lake Pillsbury storage exceeds 36,000 acre-feet following October 1, 2021, or is superseded by another variance. Due to the urgent nature of the variance request, Commission staff is approving the variance for a limited time (until June 21, 2021) until the public has an opportunity to review and comment on the licensee's proposal. Following the close of the public notice period and consideration of any comments received, Commission staff will take action on the remaining timeline associated with the licensee's request.

l. *Locations of the Application:* 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](mailto: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, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. 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, protests, or motions to intervene must be received

on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" 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 commenting, 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. Any filing made by an intervenor 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 385.2010.

Dated: May 5, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021-09930 Filed 5-10-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP21-197-000]

#### Kern River Gas Transmission Company; Notice of Application and Establishing Intervention Deadline

Take notice that on April 23, 2021, Kern River Gas Transmission Company (Kern River), 2755 East Cottonwood Parkway, Suite 300, Salt Lake City, Utah 84121, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for its proposed Delta Lateral Project (Project). Specifically, Kern River requests authorization to construct, own, operate, and maintain 35.84 miles of 24-inch-diameter pipeline, a new delivery meter station, and related appurtenances in Millard County, Utah. The Project will provide natural gas to Intermountain Power Agency's (IPA) Intermountain Power Project (IPP), which is being converted from coal-fired electrical generation to natural gas-fired electrical generation. Kern River estimates the Project will cost approximately \$93,140,275, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

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](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Any questions concerning this application should be directed to Michael T. Loeffler, Senior Director, Certificates and External Affairs, Kern River Gas Transmission Company, at (402) 398-7103, 1111 South 103rd Street, Omaha, Nebraska 68124, or by email at [mike.loeffler@nngco.com](mailto:mike.loeffler@nngco.com).

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,<sup>1</sup> within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

#### Public Participation

There are two ways to become involved in the Commission's review of this project: You can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a

<sup>1</sup> 18 CFR (Code of Federal Regulations) § 157.9.



motion to intervene is 5:00 p.m. Eastern Time on May 26, 2021.

#### Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 26, 2021.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (CP21–197–000) in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at [www.ferc.gov](http://www.ferc.gov) under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address below.<sup>2</sup> Your written comments must reference the Project docket number (CP21–197–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov).

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

<sup>2</sup> Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

#### Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,<sup>3</sup> has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure<sup>4</sup> and the regulations under the NGA<sup>5</sup> by the intervention deadline for the project, which is May 26, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number (CP21–197–000) in your submission.

<sup>3</sup> 18 CFR 385.102(d).

<sup>4</sup> 18 CFR 385.214.

<sup>5</sup> 18 CFR 157.10.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docsfiling/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.<sup>6</sup> Your motion to intervene must reference the Project docket number (CP21–197–000).

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov).

Motions to intervene must be served on the applicant either by mail or email at: 1111 South 103rd Street, Omaha, Nebraska 68124, or by email at [mike.loeffler@nngco.com](mailto:mike.loeffler@nngco.com). Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed<sup>7</sup> motions to intervene are automatically granted by operation of Rule 214(c)(1).<sup>8</sup> Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.<sup>9</sup> A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic)

<sup>6</sup> Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

<sup>7</sup> The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

<sup>8</sup> 18 CFR 385.214(c)(1).

<sup>9</sup> 18 CFR 385.214(b)(3) and (d).

of all documents filed by the applicant and by all other parties.

### Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at [www.ferc.gov](http://www.ferc.gov) using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to [www.ferc.gov/docsfiling/eSubscription.asp](http://www.ferc.gov/docsfiling/eSubscription.asp).

*Intervention Deadline:* 5:00 p.m. Eastern Time on May 26, 2021.

Dated: May 5, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021-09933 Filed 5-10-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC21-87-000.

*Applicants:* PPL Corporation, The Narragansett Electric Company.

*Description:* Joint Application for Authorization Under Section 203 of the Federal Power Act of PPL Corporation, et al.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504-5182.

*Comments Due:* 5 p.m. ET 5/25/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11-2160-018; ER10-1907-021; ER10-1918-022; ER10-1930-014; ER10-1931-015; ER10-1932-016; ER10-1935-016; ER10-1950-022; ER10-1962-017; ER10-1966-016; ER10-2720-024; ER11-2642-019; ER11-3635-015; ER11-4428-025; ER12-1228-025; ER12-1880-024; ER12-2225-015;

ER12-2226-015; ER12-895-023; ER13-2112-013; ER13-2147-003; ER14-1630-012; ER14-2138-012; ER14-2707-020; ER15-1375-011; ER15-2101-010; ER15-2477-011; ER15-2601-008; ER16-1354-010; ER16-1872-012; ER16-2275-013; ER16-2276-013; ER16-90-011; ER17-822-008; ER17-823-008; ER18-1771-011; ER18-1952-010; ER18-2003-009; ER18-2182-009; ER18-2246-011; ER18-241-007; ER19-1392-006; ER19-2389-006; ER19-2398-007; ER20-2019-003; ER20-2064-003; ER20-2690-003; ER20-2695-003; ER21-254-004.

*Applicants:* FPL Energy Montezuma Wind, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy North Dakota Wind II, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C., FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, Frontier Utilities Northeast LLC, Garden Wind, LLC, Genesis Solar, LLC, Golden Hills Interconnection, LLC, Golden Hills North Wind, LLC, Golden Hills Wind, LLC, Golden West Power Partners, LLC, Gray County Wind, LLC, Grazing Yak Solar, LLC, Green Mountain Storage, LLC, Gulf Power Company, Hancock County Wind, LLC, Harmony Florida Solar, LLC, Hatch Solar Energy Center I, LLC, Heartland Divide Wind Project, LLC, High Lonesome Mesa Wind, LLC, High Majestic Wind I, LLC, High Majestic Wind II, LLC, High Winds, LLC, Jordan Creek Wind Farm LLC, Kingman Wind Energy I, LLC, Kingman Wind Energy II, LLC, Langdon Renewables, LLC, Limon Wind, LLC, Limon Wind II, LLC, Limon Wind III, LLC, Live Oak Solar, LLC, Logan Wind Energy LLC, Lorenzo Wind, LLC, Luz Solar Partners Ltd., III, Luz Solar Partners Ltd., IV, Luz Solar Partners Ltd., V, Mammoth Plains Wind Project, LLC, Mantua Creek Solar, LLC, Marshall Solar, LLC, McCoy Solar, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco IV & V Interconnection, LLC, Minco Wind Interconnection Services, LLC, Mohave County Wind Farm LLC.

*Description:* Notice of Change in Status of GridLiance Transcos (Part 2).

*Filed Date:* 4/30/21.

*Accession Number:* 20210430-5752.

*Comments Due:* 5 p.m. ET 5/21/21.

*Docket Numbers:* ER15-1883-012; ER10-1841-022; ER10-1845-022; ER10-1849-024; ER10-1851-014; ER10-1852-052; ER10-1857-016; ER10-1890-018; ER10-1899-016; ER10-2005-022; ER11-26-022; ER12-2227-024; ER12-569-025; ER13-1991-017; ER13-1992-017; ER13-712-026; ER13-752-015; ER15-1418-012; ER15-

1925-018; ER15-2582-009; ER15-2676-017; ER16-1672-015; ER16-2190-014; ER16-2191-014; ER16-2453-015; ER16-632-011; ER16-91-012; ER17-2152-011; ER18-1534-008; ER18-1863-008; ER18-1978-007; ER18-2118-010; ER18-882-010; ER19-1003-009; ER19-1393-009; ER19-1394-009; ER19-2269-004; ER19-2373-005; ER19-2437-005; ER19-2461-005; ER19-2901-006; ER19-987-009; ER20-1769-003; ER20-1980-004; ER20-1986-002; ER20-1987-004; ER20-2027-002; ER20-2049-003; ER20-2179-004; ER20-819-005; ER20-820-004.

*Applicants:* Adelanto Solar, LLC, Adelanto Solar II, LLC, Armadillo Flats Wind Project, LLC, Ashtabula Wind I, LLC, Ashtabula Wind II, LLC, Ashtabula Wind III, LLC, Baldwin Wind Energy, LLC, Blackwell Wind, LLC, Blythe Solar 110, LLC, Blythe Solar II, LLC, Blythe Solar III, LLC, Blythe Solar IV, LLC, Brady Interconnection, LLC, Brady Wind, LLC, Brady Wind II, LLC, Breckinridge Wind Project, LLC, Bronco Plains Wind, LLC, Butler Ridge Wind Energy Center, LLC, Carousel Wind Farm, LLC, Casa Mesa Wind, LLC, Cedar Bluff Wind, LLC, Cedar Springs Wind, LLC, Cedar Springs Wind III, LLC, Cedar Springs Transmission, LLC, Cerro Gordo Wind, LLC, Chaves County Solar, LLC, Chicot Solar, LLC, Cimarron Wind Energy, LLC, Coolidge Solar I, LLC, Cottonwood Wind Project, LLC, Crowned Ridge Wind, LLC, Crystal Lake Wind Energy I, LLC, Crystal Lake Wind Energy II, LLC, Crystal Lake Wind III, LLC, Dougherty County Solar, LLC, Day County Wind I, LLC, Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, East Hampton Energy Storage Center, LLC, Elk City Renewables II, LLC, Elk City Wind, LLC, Emmons-Logan Wind, LLC, Endeavor Wind I, LLC, Endeavor Wind II, LLC, Energy Storage Holdings, LLC, Ensign Wind, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Company, FPL Energy Cape, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Illinois Wind, LLC.

*Description:* Notice of Change in Status of GridLiance Transcos (Part 1).

*Filed Date:* 4/30/21.

*Accession Number:* 20210430-5753.

*Comments Due:* 5 p.m. ET 5/21/21.

*Docket Numbers:* ER21-1846-000.

*Applicants:* Tilton Energy LLC, Yankee Street, LLC, Tait Electric Generating Station, LLC, Southern Illinois Generation Company, LLC, Sidney, LLC, Shelby County Energy Center, LLC, O.H. Hutchings CT, LLC, Monument Generating Station, LLC, Montpelier Generating Station, LLC, Lee County Generating Station, LLC, Grand Tower Energy Center, LLC, Gibson City

Energy Center, LLC, Eagle Point Power Generation LLC.

*Description:* § 205(d) Rate Filing: Tilton Energy LLC/FERC Electric Tariffs to be effective 5/5/2021.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504–5168.

*Comments Due:* 5 p.m. ET 5/25/21.

*Docket Numbers:* ER21–1847–000.

*Applicants:* Interstate Power and Light Company.

*Description:* § 205(d) Rate Filing: IPL Cert. of Concurrence for SFA–ER21–1842–000 to be effective 5/5/2021.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504–5169.

*Comments Due:* 5 p.m. ET 5/25/21.

*Docket Numbers:* ER21–1848–000.

*Applicants:* Isabella Wind, LLC.

*Description:* Tariff Cancellation: Isabella Wind MBR Cancellation Filing to be effective 5/5/2021.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504–5171.

*Comments Due:* 5 p.m. ET 5/25/21.

*Docket Numbers:* ER21–1849–000.

*Applicants:* Midcontinent

Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2021–05–05\_SA 3175 Delta’s Edge Solar-Entergy Mississippi 2nd Rev GIA (J679) to be effective 4/28/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5018.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1850–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6059; Queue No. AG1–065 to be effective 4/5/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5020.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1851–000.

*Applicants:* Midcontinent

Independent System Operator, Inc., Ameren Illinois Company.

*Description:* § 205(d) Rate Filing: 2021–05–05\_SA 3653 Ameren IL-Hoosier Energy Switching Agreement to be effective 7/5/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5026.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1852–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6055; Queue No. AG1–095 to be effective 4/6/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5033.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1853–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA, SA No. 6031 and ICSA, SA No. 6032; Queue No. AB2–136 to be effective 4/5/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5039.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1854–000.

*Applicants:* Tri-State Generation and Transmission Association, Inc.

*Description:* § 205(d) Rate Filing: Rate Schedule FERC No. 325 between Tri-State and EEA to be effective 7/5/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5081.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1855–000.

*Applicants:* Tri-State Generation and Transmission Association, Inc.

*Description:* § 205(d) Rate Filing: Rate Schedule FERC No. 326 between Tri-State and EEA to be effective 7/5/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5083.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1856–000.

*Applicants:* PacifiCorp.

*Description:* § 205(d) Rate Filing: NTUA Const Agmt Red Mesa Affected System to be effective 7/5/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5098.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1857–000.

*Applicants:* NorthWestern Corporation.

*Description:* Tariff Cancellation: Cancellation of SA 889–EPC Agreement Idaho Power Company to be effective 5/6/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5126.

*Comments Due:* 5 p.m. ET 5/26/21.

The filings are accessible in the Commission’s eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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: May 5, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021–09926 Filed 5–10–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21–1813–000]

#### Yellow Pine Energy Center I, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Yellow Pine Energy Center I, LLC’s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant’s request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 25, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal**

**Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: May 5, 2021.

**Kimberly D. Bose**,  
Secretary.

[FR Doc. 2021-09936 Filed 5-10-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-1838-000]

#### Orangeville Energy Storage LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Orangeville Energy Storage LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 25, 2021.

The Commission encourages electronic submission of protests and

interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Dated: May 5, 2021.

**Kimberly D. Bose**,  
Secretary.

[FR Doc. 2021-09932 Filed 5-10-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC21-20-000]

#### Commission Information Collection Activities (FERC-567, FERC-576); Consolidated Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of information collections and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork

Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections, FERC-567 (Gas Pipeline Certificates: Annual Reports of System Flow Diagrams) and FERC-576 (Report of Service Interruptions or Damage to Facilities) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

**DATES:** Comments on the collections of information are due July 12, 2021.

**ADDRESSES:** You may submit copies of your comments (identified by Docket No. IC21-20-000 and the specific FERC collection number (FERC-567 or FERC-576)) by one of the following methods:

Electronic filing through <http://www.ferc.gov>, is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:*

Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *Hand (including courier) Delivery:*

Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

**Instructions:** All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at (866) 208-3676 (toll-free).

**Docket:** Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202) 502-8663.

**Comments:** Comments are invited on:

- (1) Whether the collections of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;
- (2) the accuracy of the agency's estimate of the burden<sup>1</sup> and cost of the

<sup>1</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information

collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**SUPPLEMENTARY INFORMATION:** The following information pertains to FERC-567 only.

*Title:* FERC-567, Gas Pipeline Certificates: Annual Reports of System Flow Diagrams.

*OMB Control No.:* 1902-0005.

*Type of Request:* Three-year extension of the FERC-567 information collection

requirements with no changes to the current reporting requirements.

*Abstract:* Per 18 Code of Federal Regulations (CFR) 260.8(a), each major interstate natural gas pipeline with a system delivery capacity exceeding 100,000 Mcf<sup>2</sup> per day is required to submit, by June 1 of each year, diagrams reflecting operating conditions on the pipeline's main transmission system during the previous 12 months ending on December 31. The submitted information must include (i) configuration and location of installed pipeline facilities; (ii) receipt and delivery points between shippers, and pipeline companies; (iii) location of compressor stations on a pipeline system; (iv) pipeline diameters; (v) maximum allowable operating

pressures; (vi) suction and discharge pressures at compressor stations; (vii) installed horsepower and volumes compressed at each compressor station; (viii) existing shippers currently nominating service under firm contracts on each pipeline company; and (ix) peak capacity on the system. The data is collected so that it's available in the event the Commission needs to confirm pipeline facility data.

*Type of Respondents:* Natural gas pipeline companies with a system delivery capacity in excess of 100,000 Mcf per day.

*Estimate of Annual Burden:* The Commission estimates the annual public reporting burden for the information collection as:

**FERC-567—GAS PIPELINE CERTIFICATES: ANNUAL REPORTS OF SYSTEM FLOW DIAGRAMS**

Respondents	Number of respondents <sup>3</sup>	Annual number of responses per respondent	Total number of responses	Average burden and cost per response <sup>4</sup>	Total annual burden hours and total annual cost	Cost per respondent (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Natural Gas Pipelines .....	124	1	124	4 hrs.; \$332 .....	496 hrs.; \$41,168 .....	\$332

The following information pertains to FERC-576 only.

*Title:* FERC-576, Report of Service Interruptions or Damage to Facilities.

*OMB Control No.:* 1902-0004.

*Type of Request:* Three-year extension of the FERC-576 information collection requirements with no changes to the current reporting requirements.

*Abstract:* Per 18 CFR 260.9, natural gas pipeline companies must report (i) damage to any jurisdictional natural gas facilities other than liquefied natural gas facilities caused by a hurricane, earthquake or other natural disaster or terrorist activity that results in a loss of or reduction in pipeline throughput or storage deliverability; and (ii) serious interruptions of service to any shipper involving jurisdictional natural gas facilities other than liquefied natural gas facilities.

The notifications, made to the Director, Division of Pipeline Certificates via email or fax as soon as feasibly possible, must state: (1) The location of the service interruption or damage to natural gas pipeline or storage facilities; (2) The nature of any damage to pipeline or storage facilities; (3) Specific identification of the facilities damaged; (4) The time the service interruption or damage to the facilities occurred; (5) The customers affected by the service interruption or damage to the facilities; (6) Emergency actions taken to maintain service; and (7) Company contact and telephone number. The information provided by these notifications are kept by the Commission and are not made part of the public record.

In addition, if an incident requires reporting of the incident to the

Department of Transportation under the Natural Gas Pipeline Safety Act of 1968, a copy of such report shall be submitted to the Director of the Commission's Division of Pipeline Certificates, within 30 days of the reportable incident. Natural gas companies must also send a copy of submitted reports to each state commission for the state(s) in which the reported service interruption occurred. If the Commission did not collect this information, it would lose a data point that assists in the monitoring of transactions, operations, and reliability of interstate pipelines.

*Type of Respondents:* Natural gas companies experiencing service interruptions or damage to facilities.

*Estimate of Annual Burden:* The Commission estimates the average annual burden and cost<sup>5</sup> for this information collection as follows.

collections burden, reference 5 Code of Federal Regulations 1320.3.

<sup>2</sup> Mcf is a unit of measurement for natural gas that equals 1,000 cubic feet.

<sup>3</sup> The number of respondents in the currently approved OMB inventory for FERC-567 is 197. Changes to the estimate were based on average number of respondents over the past three years.

<sup>4</sup> The Commission staff estimates that the average respondent for FERC-567 is similarly situated to the Commission, in terms of salary plus benefits. Based on FERC's 2020 annual average of \$172,329 (for salary plus benefits), the average hourly cost is \$83/hour.

<sup>5</sup> Costs (for wages and benefits) are based on wage figures from the Bureau of Labor Statistics (BLS) for May 2020 (at [https://www.bls.gov/oes/current/naics2\\_22.htm](https://www.bls.gov/oes/current/naics2_22.htm)). Commission staff estimates that

20% of the work is performed by a manager, and 80% is performed by legal staff. The hourly costs for wages plus benefits are:

- Management (Occupational Code: 11-0000) is \$97.89.
- Legal (Occupational Code: 23-0000) is \$142.25. Therefore, the weighted hourly cost (for wages plus benefits) is \$133.38 [(0.20 \* \$97.89) + (0.80 \* \$142.25)].

FERC-576—REPORT OF SERVICE INTERRUPTIONS OR DAMAGE TO FACILITIES

	Number of respondents <sup>6</sup>	Annual number of responses per respondent	Total number of responses	Average burden hours and cost (\$) per response	Total annual burden hours and total annual cost	Cost per respondent <sup>7</sup> (\$)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Notification of Incident—Service Interruption.	50	1	50	1 hr.; \$133.38 .....	50 hrs.; \$6,669 .....	\$133.38
Notification of Incident—Damage .....	22	1	22	0.25 hrs.; \$33.45 .....	5.5 hrs.; \$735.90 .....	33.45
Submittal of DOT Incident Report .....	10	1	10	0.25 hrs.; \$33.45 .....	2.5 hrs.; \$333.45 .....	33.45
Total .....	82	.....	.....	.....	84 hrs.; \$11,212.74 .....	.....

Dated: May 5, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-09935 Filed 5-10-21; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Combined Notice of Filings #2**

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10-1989-018; ER10-2078-022; ER11-4678-018; ER12-1660-021; ER12-631-019; ER13-2458-016; ER13-2474-019; ER15-1016-011; ER16-1277-011; ER16-1293-011; ER17-2270-013; ER17-582-009; ER17-583-009; ER18-2032-009; ER18-2091-008; ER19-2382-005; ER19-2495-005; ER19-2513-005; ER19-774-007; ER20-2069-002; ER20-2070-003; ER20-2237-003; ER20-2597-003; ER20-2603-003; ER20-637-003; ER20-780-003; ER21-255-004; ER21-744-001.

*Applicants:* Sky River LLC, White Oak Energy LLC, Vasco Winds, LLC, Windpower Partners 1993, Tuscola Bay Wind, LLC, Tuscola Wind II, LLC, Steele Flats Wind Project, LLC, Shafter Solar, LLC, White Pine Solar, LLC, White Oak Solar, LLC, Westside Solar, LLC, Whitney Point Solar, LLC, Stuttgart Solar, LLC, Wildcat Ranch Wind Project, LLC, Titan Solar, LLC, Stanton Clean Energy, LLC, Story County Wind, LLC, Wessington Springs Wind, LLC, Wilton Wind Energy II, LLC, Wilton Wind Energy I, LLC, Sooner Wind, LLC, Wheatridge Wind Energy, LLC, Wheatridge Wind II, LLC, Weatherford Wind, LLC, Soldier Creek Wind, LLC, Skeleton Creek Wind, LLC, Taylor Creek Solar, LLC, Wallingford Renewable Energy LLC.

<sup>6</sup> The total number of respondents in the currently approved OMB inventory for FERC-576 is 147. Changes to the estimate were based on average number of respondents over the past three years.

*Description:* Notice of Change in Status of GridLiance Transcos (Part 4).  
*Filed Date:* 4/30/21.

*Accession Number:* 20210430-5751.

*Comments Due:* 5 p.m. ET 5/21/21.

*Docket Numbers:* ER18-1535-007; ER10-1951-033; ER10-1970-021; ER10-1972-021; ER10-1973-015; ER10-1974-026; ER10-2641-039; ER11-2192-017; ER11-4462-054; ER11-4677-018; ER12-2444-017; ER12-676-014; ER13-2461-016; ER14-21-009; ER14-2708-021; ER14-2709-020; ER14-2710-020; ER15-2243-009; ER15-30-018; ER15-58-018; ER16-1440-014; ER16-1913-008; ER16-2240-014; ER16-2241-013; ER16-2297-013; ER16-2443-008; ER16-2506-013; ER17-1774-006; ER17-196-006; ER17-838-029; ER18-1981-009; ER18-2224-012; ER18-2314-005; ER18-772-006; ER18-807-007; ER19-11-006; ER19-1128-003; ER19-2266-004; ER20-1219-003; ER20-1220-003; ER20-1879-004; ER20-1985-003; ER20-1988-004; ER20-1991-003; ER20-2012-003; ER20-2153-004; ER20-2380-003; ER20-2648-003; ER20-792-003; ER21-183-001.

*Applicants:* Montauk Energy Storage Center, LLC, Mountain View Solar, LLC, NEPM II, LLC, New Mexico Wind, LLC, NextEra Blythe Solar Energy Center, LLC, NextEra Energy Bluff Point, LLC, NextEra Energy Duane Arnold, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Marketing, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, Ninnescah Wind Energy, LLC, North Sky River Energy, LLC, Northern Colorado Wind Energy Center II, LLC, Northern Colorado Wind Energy Center, LLC, Northern Divide Wind, LLC, Nutmeg Solar, LLC, Oklahoma Wind, LLC, Oleander Power Project, Limited Partnership, Oliver Wind Energy Center II, LLC, Oliver Wind I, LLC, Oliver Wind III, LLC, Orbit Bloom Energy, LLC, Osborn Wind Energy, LLC, Palo Duro Wind Energy, LLC, Palo Duro Wind Interconnection Services, LLC,

Peetz Logan Interconnect, LLC, Peetz Table Wind, LLC, Pegasus Wind, LLC, Perrin Ranch Wind, LLC, Pheasant Run Wind, LLC, Pima Energy Storage System, LLC, Pinal Central Energy Center, LLC, Ponderosa Wind, LLC, Pratt Wind, LLC, Quitman Solar, LLC, Red Mesa Wind, LLC, River Bend Solar, LLC, Roswell Solar, LLC, Rush Springs Energy Storage, LLC, Rush Springs Wind Energy, LLC, Saint Solar, LLC, Sanford Airport Solar, LLC, Seiling Wind, LLC, Seiling Wind II, LLC, Seiling Wind Interconnection Services, LLC, Sholes Wind, LLC, Silver State Solar Power South, LLC.

*Description:* Notice of Change in Status of GridLiance Transcos (Part 3).  
*Filed Date:* 4/30/21.

*Accession Number:* 20210430-5754.

*Comments Due:* 5 p.m. ET 5/21/21.

*Docket Numbers:* ER19-2462-002; ER18-2264-007; ER19-289-005; ER11-4111-002.

*Applicants:* Macquarie Energy LLC, Macquarie Energy Trading LLC, Cleco Cajun LLC, Hudson Ranch Power I LLC.

*Description:* Supplement to November 30, 2020, February 2, 2021, and March 1, 2021 Notice of Non-Material Change in Status of Macquarie Energy LLC, et al.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504-5184.

*Comments Due:* 5 p.m. ET 5/25/21.

*Docket Numbers:* ER20-1150-002.

*Applicants:* The Dayton Power and Light Company, PJM Interconnection, L.L.C.

*Description:* Compliance filing: Dayton submits Compliance Filing re: Refund Report in ER20-1150-001 to be effective 5/3/2020.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505-5129.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21-1225-001.

*Applicants:* Long Ridge Energy Generation LLC.

*Description:* Tariff Amendment: Deficiency Response to MBR Application-Docket ER21-1225 to be effective 4/29/2021.

*Filed Date:* 5/5/21.

*Accession Number:* 20210505–5108.

*Comments Due:* 5 p.m. ET 5/26/21.

*Docket Numbers:* ER21–1832–000.

*Applicants:* SunEnergy1, LLC.

*Description:* Petition for Limited

Waiver and Request for Shortened Comment Period and Expedited Commission Approval of SunEnergy1, LLC.

*Filed Date:* 5/3/21.

*Accession Number:* 20210503–5144.

*Comments Due:* 5 p.m. ET 5/24/21.

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: May 5, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–09934 Filed 5–10–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 15116–000]

#### Ocean Renewable Power Company, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 29, 2021, Ocean Renewable Power Company, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the proposed East Foreland Tidal Energy Project No. 15116–000, to be located on Cook Inlet near Nikiski and adjacent lands of the Kenai Peninsula Borough, Alaska. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary

permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A series of proprietary turbine-generator units with a combined capacity of no more than 5 megawatts; (2) a 1- to 5-mile-long, 12.5- to 25-kV submarine transmission cable from the module site to an onshore location on the west coast of the Kenai Peninsula; (3) an approximately 0.75-mile-long, 12.5- to 25-kV above-ground transmission line leading to a substation owned by Homer Electric Association; and (4) appurtenant facilities. The estimated annual generation of the East Foreland project would be up to 13.5 gigawatt-hours.

*Applicant Contact:* Nathan Johnson, 254 Commercial Street, Suite 119B, Portland, Maine 04101; phone: (207) 772–7707; email: [njohnson@orpc.co](mailto:njohnson@orpc.co).

*FERC Contact:* Kristen Sinclair; phone: (202) 502–6587; email: [kristen.sinclair@ferc.gov](mailto:kristen.sinclair@ferc.gov).

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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/docs-filing/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](mailto: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–15116–000.

More information about this project, including a copy of the application, can be viewed or printed on the “eLibrary”

link of Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P–15116) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 5, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–09927 Filed 5–10–21; 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:* RP21–720–002.

*Applicants:* WBI Energy Transmission, Inc.

*Description:* Tariff Amendment: 2021 Second Amendment Filing to New GMS—Uncommitted Capacity to be effective 5/7/2021.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504–5053.

*Comments Due:* 5 p.m. ET 5/17/21.

*Docket Numbers:* RP21–814–000.

*Applicants:* Stingray Pipeline Company, L.L.C.

*Description:* § 4(d) Rate Filing: Housekeeping Tariff Filing to be effective 6/4/2021.

*Filed Date:* 5/4/21.

*Accession Number:* 20210504–5072.

*Comments Due:* 5 p.m. ET 5/17/21.

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: May 5, 2021.  
**Kimberly D. Bose,**  
*Secretary.*  
 [FR Doc. 2021-09929 Filed 5-10-21; 8:45 am]  
**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. ER21-1814-000]

**Yellow Pine Energy Center II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of Yellow Pine Energy Center II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 25, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in

docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.  
 In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: May 5, 2021.  
**Kimberly D. Bose,**  
*Secretary.*  
 [FR Doc. 2021-09928 Filed 5-10-21; 8:45 am]  
**BILLING CODE 6717-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL 10021-74-Region 3]

**Clean Water Act: No-Discharge Zones for Vessel Sewage in Maryland and Virginia**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice—final determination.

**SUMMARY:** On behalf of the State of Maryland, the Secretary of the Maryland Department of Natural Resources requested that the Regional Administrator, U.S. Environmental Protection Agency, Region 3 approve a no-discharge zone for thirteen water bodies in Anne Arundel County, Maryland pursuant to the Clean Water Act. After review of Maryland's application, EPA determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonable available for all thirteen waterbodies within Anne Arundel County. The

application is available upon request from EPA (at the email address below).

**DATES:** This approval is effective upon the date of publication in the **Federal Register** on May 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ferry Akbar Buchanan, U.S. Environmental Protection Agency—Region III. Telephone: (215) 814-2570; email address: [AkbarBuchanan.Ferry@epa.gov](mailto:AkbarBuchanan.Ferry@epa.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to Clean Water Act section 312(f)(3), if any state determines that the protection and enhancement of the quality of some or all of the state's waters require greater environmental protection, the state may designate the waters as a vessel sewage no-discharge zone. However, the state may not establish the no-discharge zone until EPA has determined that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the proposed waters. EPA's implementing regulations, 40 CFR part 140, require that the state apply to EPA to obtain such a determination, and identify the types of information that must be included in the application. This includes a certification of need for the no-discharge zone and information regarding the vessel population and pumpout facilities.

The proposed no-discharge zone includes thirteen water bodies wholly within Anne Arundel County, Maryland: Stoney Creek, Rock Creek, Bodkin Creek, the Atlantic Marina Resort, Magothy and Little Magothy Rivers, Severn River, South River, West and Rhode Rivers, Podickory Creek, Sandy Point/Mezick Ponds, Whitehall Bay, Oyster Cove and Fishing Creek. While these waterbodies constitute nearly all of the county's waters, a few water bodies have not been proposed for the no-discharge zone designation. These include two inter-jurisdictional rivers that border the county, the Patapsco River and Patuxent River, as well as Curtis Creek. The proposed no-discharge zone encompasses a total area of 27,379 acres, expanding upon an existing 3,500 acre no-discharge zone for Herring Bay that was approved in 2002 (67 FR 1352, January 10, 2002). The table below provides the coordinates delineating the proposed no-discharge zone boundaries for each of the thirteen waterbodies.

Waterbody	Waterbody limits	Area (acres)
Stony Creek .....	39.1723 °N, 76.5171 °W to 39.1725 °N, 76.5126 °W .....	677
Rock Creek .....	39.1614 °N, 76.5004 °W to 39.1625 °N, 76.4862 °W .....	524



Waterbody	Waterbody limits	Area (acres)
South Shore, Patapsco River .....	39.1472 °N, 76.4589 °W to 39.1471 °N, 76.4588 °W .....	2
Bodkin Creek .....	39.1346 °N, 76.4398 °W to 39.1321 °N, 76.4378 °W .....	609
Magothy and Little Magothy Rivers .....	39.0597 °N, 76.4332 °W to 39.0527 °N, 76.4382 °W .....	5,879
Podickory Creek .....	39.0328 °N, 76.4040 °W to 39.0317 °N, 76.4048 °W .....	9
Sandy Point/Mezick Ponds .....	39.0082 °N, 76.4031 °W to 39.0081 °N, 76.4033 °W .....	47
Whitehall Bay .....	38.9748 °N, 76.4547 °W to 38.9871 °N, 76.4268 °W .....	1,599
Severn River .....	38.9748 °N, 76.4547 °W to 38.9411 °N, 76.4502 °W .....	7,497
Oyster Creek .....	38.9274 °N, 76.4638 °W to 38.9273 °N, 76.4634 °W .....	34
Fishing Creek .....	38.9147 °N, 76.4590 °W to 38.9073 °N, 76.4600 °W .....	228
South River .....	38.9073 °N, 76.4600 °W to 38.8877 °N, 76.4898 °W .....	5,904
West and Rhode Rivers .....	38.8877 °N, 76.4898 °W To 38.8531 °N, 76.4959 °W .....	4,370
<b>Total Area</b> .....	.....	<b>27,379</b>

In the application, Maryland certified that the waters of the City of Annapolis and Anne Arundel County require greater environmental protection than provided by currently applicable Federal standards for vessel sewage discharges. The Magothy River, Whitehall Bay/Meredith River, Severn River, South River, Rhode River and West River have been listed on current or previous Clean Water Act 303(d) lists of impaired waters by Maryland as impaired for shellfish harvesting due to fecal coliform. As such, many shellfish beds are restricted or closed. All except Whitehall Bay/Meredith Creek are also impaired for nutrients (nitrogen and phosphorus) and all except the Whitehall Bay/Meredith Creek and West River for total suspended solids. The state anticipates that a no-discharge zone designation would help reduce levels of nutrients, total suspended solids, and fecal coliform within these impaired waters.

The application also highlights the importance of boating in Anne Arundel County. The county is home to the U.S.

Naval Academy, has hosted the U.S. Sailboat and Powerboat Shows annually since 1970, and is known as the “The Nation’s Sailing Capital.” According to the application’s sources, there are approximately 96 recreational boating businesses in Anne Arundel County, plus additional businesses that support and depend on recreational crabbing and fishing.

The State of Maryland provided documentation indicating that the maximum total vessel population is estimated to be 29,789 vessels, the majority of which are recreational. The most conservative vessel population estimates provided by Maryland suggest that there are 7,182 vessels less than 16 feet in length, 10,307 vessels between 16 feet and 26 feet in length, 9,072 vessels between 26 feet and 40 feet in length, and 3,228 vessels greater than 40 feet in length. Commercial traffic on these waterways is limited to boat rental companies, public charter vessels and several small cruise ships. Based on the number and size of vessels and EPA guidance on the subject (“Protecting

Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials, Volume 1. Establishing No-Discharge Areas under section 312 of the Clean Water Act” (EPA 842-B-94-004, August 1994)), the estimated number of vessels requiring pumpout facilities in the City of Annapolis and Anne Arundel County during peak occupancy is 2,924 vessels.

Based on Maryland’s vessel population estimates and EPA guidance, approximately 46 pumpout facilities are needed to adequately service the vessel population. Maryland identified 61 marinas offering public pumpout service, including 59 stationary units, nine portable units and three mobile pumpout boats. The application provides additional information regarding height and draft limitations for accessing pumpout facilities. EPA has determined that vessels using the proposed waters will not be excluded due to any such limitations. A list of the facilities, phone numbers, locations and hours of operation follows.

Station	Location	Phone	Hours	Depth	Off season operation	Limited overhead	Address
<b>AREA: PATAPSCO RIVER (11)</b>							
Atlantic Marina Resort.	Patapsco River (mouth).	410-437-6926	9-5 Daily .....	4'	No .....	NA .....	2010 Knollview Ave, Pasadena, MD 21122.
Blake’s Bar Harbor ...	Patapsco River Rock Creek.	410-255-5500	8-6 Daily .....	4'	No .....	NA .....	208 Bar Harbor Rd, Pasadena, MD 21122.
Fairview Marina .....	Patapsco River Rock Creek.	410-437-3400	Mon-Fri 8-4; Sat-Sun 8-3.	5'	No .....	NA .....	1575 Fairview Beach Rd, Pasadena, MD 21122.
Hammock Island Marina.	Patapsco River Bodkin Creek.	410-437-1870	10-4 daily .....	7'	No .....	NA .....	8083 Ventnor Rd, Pasadena, MD 21122.
Maryland Yacht Club	Patapsco River Rock Creek.	410-255-4444	8-4 daily .....	17'	Yes .....	NA .....	1500 Fairview Beach Rd, Pasadena, MD 21122.
Nabbs Creek Marina	Patapsco River Stoney Creek.	410-437-0402	8:30-5 daily .....	6'	No .....	Yes .....	864 Nabbs Creek Rd, Glen Burnie, MD 21060.
Oak Harbor Marina ...	Patapsco River Rock Creek.	410-255-4070	24-7 .....	15'	No .....	NA .....	1343 Old Water Oak Point Rd, Pasadena, MD 21122.
Pasadena Yacht Yard	Patapsco River Rock Creek.	410-255-1771	9-5 daily .....	4'	No .....	NA .....	8631 Fort Smallwood Road Pasadena, MD 21122.
Pleasure Cove Marina.	Patapsco River Bodkin Creek.	410-437-6600	Mon-Thur 9-6; Fri-Sun 9-8.	8'	Yes .....	NA .....	1701 Poplar Ridge Rd, Pasadena, MD 21122.
Ventnor Marina .....	Patapsco River Bodkin Creek.	410-255-4100	9-5 daily .....	10'	Yes .....	NA .....	8070 Ventnor Rd, Pasadena, MD 21122.
White Rocks Marina & Boatyard.	Patapsco River Rock Creek.	410-255-3800	Mon-Fri 9-3; Sat 11-2.	14'	No .....	NA .....	1402 Colony Rd, Pasadena, MD 21122.

Station	Location	Phone	Hours	Depth	Off season operation	Limited overhead	Address
<b>AREA: MAGOTHY RIVER (7)</b>							
Atlantic Marina on the Magothy.	Magothy River/ Grays Creek.	410-360-2500	9-5 daily .....	6'	No .....	NA .....	487 New York Ave, Pasadena, MD 21122.
Fairwinds Marina .....	Magothy Marina .....	410-974-0758	8-5 daily .....	6'	No .....	NA .....	1000 Fairwinds Dr, Annapolis, MD 21409.
Ferry Point Marina ....	Magothy River/Mill Creek.	410-544-6368	7am-8pm daily .....	14'	Yes .....	NA .....	1606 Marina Dr, Trappe, MD 21673.
Hamilton Harbour Marina.	Magothy River .....	410-647-0733	Thurs-Tues 9-5 .....	12'	No .....	NA .....	368 North Dr, Severna Park, MD 21146.
Magothy Marina .....	Magothy River .....	410-647-2356	Mon-Thur 8-6, Fri-Sun 8-8.	16'	No .....	NA .....	360 Magothy Rd, Severna Park, MD 21146.
Podickory Point Yacht Club.	Chesapeake Bay ....	410-757-8000	9-5 daily .....	5'	No .....	NA .....	2116 Bay Front Terrace, Annapolis, MD 21409.
Sandy Point State Park.	Chesapeake Bay ....	410-974-2149	24-7 .....	6'	No .....	NA .....	1100 E College Pkwy, Annapolis, MD 21409.

<b>AREA: SEVERN RIVER (17)</b>							
Annapolis City Marina	Severn River Spa Creek.	410-268-0660	8-8 daily .....	14'	Upon Request.	NA .....	410 Severn Ave, Annapolis, MD 21403.
Annapolis Landing Marina.	Severn River Back Creek.	410-263-0090	10-5 daily .....	6'	No .....	NA .....	980 Awald Rd, Annapolis, MD 21403.
Annapolis Maryland Capital Yacht Club.	Severn River Back Creek.	410-269-5219	9-5 daily .....	8'	No .....	NA .....	16 Chesapeake Landing, Annapolis, MD 21403
Bert Jabin's Yacht Yard.	Severn River Back Creek.	410-268-9667	8-4:30 daily .....	8'	No .....	NA .....	7310 Edgewood Rd, Annapolis, MD 21403.
Chesapeake Harbour Marina.	Chesapeake Bay ....	410-268-1969	9-5 daily .....	8'	No .....	NA .....	2030 Chesapeake Harbour Dr E, Annapolis, MD 21403.
City of Annapolis Pumpout Boat.	Severn River Spa Creek.	410-320-6852	Mon-Sat 8-4:30 .....	NA	NA .....	NA .....	NA.
Eastport Yacht Center.	Severn River Back Creek.	410-280-9988	8-4 daily .....	8'	No .....	NA .....	726 2nd St, Annapolis, MD 21403.
Horn Point Harbour Marina.	Severn River Back Creek.	410-263-0550	9-5 daily .....	8'	No .....	NA .....	105 Eastern Ave, Annapolis, MD 21403.
JPort Marina .....	Severn River Back Creek.	410-280-8692	9-5 daily .....	9'	No .....	NA .....	7074 Bembe Beach Rd, Annapolis, MD 21403.
Little John Marina .....	Severn River Brewer Creek.	410-841-6491	9-5 daily .....	15'	No .....	NA .....	134 Sherwood Forest Road, Sherwood Forest, MD 21405.
Mears Marina .....	Severn River Back Creek.	410-268-8282	24-7 .....	10'	No .....	NA .....	519 Chester Ave, Annapolis, MD 21403.
Pines on the Severn	Severn River/Chase Creek.	410-370-2948	24-7 .....	10'	No .....	NA .....	21012, Arnold, MD 21012.
Port Annapolis Marina.	Severn River Back Creek.	410-269-1990	8-4:30 daily .....	10'	Yes .....	NA .....	7074 Bembe Beach Rd, Annapolis, MD 21403.
Smith's Marina .....	Severn River Little Round Bay.	410-923-3444	8-8 daily .....	7'	No .....	Yes .....	529 Ridgley Rd, Crownsville, MD 21032.
The President Point ..	Severn River Spa Creek.	410-991-9381	7-7 daily .....	5'	No .....	NA.	
Watergate Pointe Marina.	Severn River/Back Creek.	443-926-1303	24-7 .....	7'	No .....	NA .....	655 Americana Dr, Annapolis, MD 21403.
Yacht Haven of Annapolis.	Severn River Spa Creek.	410-267-7654	Mon-Fri 7:30-4:30	11'	No .....	NA .....	326 First St, Annapolis, MD 21403.

<b>AREA: SOUTH RIVER (13)</b>							
Anchor Yacht Basin ..	South River Selby Bay.	410-798-1431	8-5 daily .....	5'	No .....	NA .....	1048 Turkey Point Rd, Edgewater, MD 21037.
Arundel on the Bay ...	South River/Fishing Creek.	443-253-0596	Dawn to dusk .....	4-6'	Yes .....	NA .....	P.O. Box 4665, Annapolis.
Fishing Creek .....	South River Duvall Creek.	.....	24-7 .....	7'	No .....	NA .....	122 Cherry Lane, Annapolis 21403.
Holiday Point Marina	South River Selby Bay.	410-956-2208	Mon-Fri 7:30-4; Sat by appointment.	6'	Yes .....	NA .....	3774 Beach Dr, Blvd # C, Edgewater, MD 21037.
Liberty Marina .....	South River .....	410-266-5633	8-4:30 daily .....	15'	Yes .....	Yes .....	64 Old South River Rd, Edgewater, MD 21037.
Mayo Ridge Marina ..	South River Ramsey Lake.	410-798-1952	9-7 daily .....	5'	Yes .....	NA .....	1293 Mayo Ridge Rd, Edgewater, MD 21037.
Norris Marina .....	South River Ramsey Lake.	410-798-0275	8-4 daily .....	8'	No .....	Yes .....	1111 Turkey Point Rd, Edgewater, MD 21037.
Oak Grove Marine Center.	South River .....	410-266-6696	Mon-Fri 10-6; Sat-Sun 8-7.	9'	No .....	NA .....	2820 Solomons Island Rd, Edgewater, MD 21037.
Oyster Harbor .....	South River/Oyster Creek.	410-280-8999	24-7 .....	6'	No .....	NA .....	P.O. Box 3174, Annapolis.
Pier 7 Marina .....	South River .....	410-956-2288	9-5 daily .....	12'	No .....	Yes .....	48 S River Road South, Edgewater, MD 21037.
Pocahontas Marina ...	South River/Pocahontas Creek.	410-533-8752	24-7 .....	10'	Yes .....	NA .....	3365 Pocahontas Drive, Edgewater, MD 21037.
Selby Bay Marina .....	South River Selby Bay.	410-798-0232	9-5 daily .....	8'	Yes .....	NA .....	931 Selby Blvd, Edgewater, MD 21037.

Station	Location	Phone	Hours	Depth	Off season operation	Limited overhead	Address
Turkey Point Marina	South River Ramsey Lake.	410-798-1369	Tues-Sat 9-5 .....	4'	No .....	No .....	1107 Turkey Point Rd, Edgewater, MD 21037.

AREA: RHODE RIVER (5)

Blue Water Marina ....	Rhode River, Bear Neck Creek.	410-798-6968	10-5 daily .....	10'	No .....	NA .....	1024 Carrs Wharf Rd., Edgewater, MD 21037.
Cadle Creek Marina ..	Rhode River Cadle Creek.	410-798-1915	9-5 daily .....	6'	No .....	NA .....	4159 Cadle Creek Rd, Edgewater, MD 21037.
Casa Rio Marina .....	Rhode River Cadle Creek.	410-798-4731	Mon-Fri 8-4 .....	5'	Yes .....	NA .....	4079 Cadle Creek Rd, Mayo, MD 21106.
Rhode River Marina ..	Rhode River Back Neck Creek.	410-798-1658	8-5 daily .....	9'	No .....	NA .....	3932 Germantown Rd, Edgewater, MD 21037.
West/Rhode Riverkeeper Pumpout Boat.	Rhode River .....	443-221-5104 or VHF channel 71	Fri-Mon 8-6 .....	.....	No .....	NA .....	4800 Atwell Road, Edgewater, MD 21037.

AREA: WEST RIVER (7)

Backyard Boats .....	West River/Parrish Creek.	301-261-5115	8-4 daily .....	10'	Yes .....	NA .....	4819 Woods Wharf Rd Shady Side, MD 20764.
Chesapeake Yacht Club.	West River .....	410-867-1500	Wed-Mon 9-4 .....	8'	No .....	NA .....	4943 Hine Dr, Shady Side, MD 20764.
Hartge Yacht Harbor	West River .....	443-607-6306	Mon-Fri 8-5; Sat-Sun 9-5.	10'	No .....	NA .....	4883 Church Ln, Galesville, MD 20765.
Shady Oaks Marina ..	West River .....	410-267-1808	8-8 daily .....	5'	No .....	NA .....	846 Shady Oaks Rd, West River, MD 20778.
West/Rhode River Keeper Pump out.	West River .....	443-221-5104 or VHF channel 71	Fri-Mon 8-6 .....	.....	No .....	NA .....	4800 Atwell Road, Edgewater, MD 21037.
West River Fuel Dock	West River .....	410-867-1444	M-Th 9-5, S/S 8-6, Fri 9-6.	8'	No .....	NA .....	4801 Riverside Dr. Galesville, MD 20765.
West River Yacht Harbor Condo.	West River .....	301-672-3473	8-6 daily .....	7'	Yes .....	NA .....	4801 Riverside Dr, Galesville, MD 20765.

AREA: WHITEHALL BAY (1)

Hinkley Yacht Club ...	Whitehall Creek .....	443-951-4380	M-F 8-9, Week-ends by appointment.	12'	Yes .....	NA .....	1656 Homewood Landing Road Whitehall, Annapolis, MD 21409.
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As part of the determination, EPA considered the costs associated with the adequacy and availability of pumpout facilities and determined that costs are minimal. As shown in the table below, pumpout facilities located within the proposed no-discharge zone charge fees that range from \$3 to \$50, with 52 of 61 available facilities charging \$5 or less, including 15 facilities that are free to use. According to Maryland's application, the majority of commercial vessels operating in the proposed no-discharge zone are already equipped with holding tank capacity and therefore are not expected to experience incremental cost increases as a result of the designation.

Fee	Number of pumpout facilities	Proportion of pumpout facilities (percent)
Free .....	15	24
\$3 .....	1	1.5
\$5 .....	37	62
\$10 .....	5	8
\$15 .....	2	3
\$50 .....	1	1.5
Total .....	61	100

In order to solicit input on Maryland's application, EPA published a tentative affirmative determination in the **Federal Register** on September 23, 2020, thereby opening a 30-day public comment period (85 FR 59788). EPA received comments from five individuals regarding establishment of a no-discharge zone in Anne Arundel County and its tributaries. Of those, one supported and three opposed the effort. The other commenter neither supported nor opposed the no-discharge zone, and instead inquired whether the commenter could receive a temporary exemption from enforcement of this no-discharge zone. Since EPA does not enforce this requirement once approved, that comment is outside the scope of EPA's authority to respond. Comments critical of establishing a no-discharge zone focused on three primary issues.

*Issue 1:* Nearby municipalities lack the proper waste treatment system that often overflow and result in spilling sewage to nearby waters.

*Response 1:* In Maryland's application, the state identifies how collected waste is handled by each individual pumpout facility. Some pumpout facilities temporarily store

sewage onsite in a holding tank for later pumpout by a septic hauler that ultimately transports the sewage to a wastewater treatment plant licensed to operate in the state of Maryland. The remaining facilities are directly served by the public sewer, where sewage is directly deposited into the public sewer systems. Maryland confirms that these systems comply all applicable regulations. Treatment facilities are regulated by Maryland through NPDES permits under CWA section 402 and addressed in the Code of Maryland Regulations. Any specific overflows or spills from such facilities may further be addressed further through enforcement and/or compliance efforts. EPA reviewed recent data pertaining to overflows and found no significant violations of such permit requirements. Additionally, there are no Combined Sewer Systems in the proposed waters. EPA does not believe the closest CSO communities have any significant impact on these waters; furthermore, those programs are being adequately addressed through ongoing separation projects and/or in accordance with the schedule for approved long term control plans.

*Issue 2:* The number of available pumpouts is sufficient for the resident vessel population but not for the transient vessel population in Whitehall Bay.

*Response 2:* In addition to the stationary pumpout facility open for public use in Whitehall Bay, nearby facilities are available to the southwest in Severn River (16 facilities) and to the northeast in Sandy Point/Mezick's Pond (one facility). As such, transient vessel operators have an option available to them while operating within Whitehall Bay, as well as before or after transiting through the area.

*Issue 3:* Most pumpout facilities are not open after dark and very few are open during winter.

*Response 3:* The commenter is correct that few pumpout facilities offer around-the-clock service. However, numerous facilities across the proposed no-discharge zone are available to service vessels into the late afternoon and evening. It is reasonable to expect that vessel operators can identify suitable times and locations to pumpout during facility operating hours. During the off-season (winter) months, vessels can be pumped out at the six different pumpout facilities across the proposed no-discharge zone that continue to operate. The Annapolis City pumpout boat also remains in service during this time. While most pumpout facilities are closed, Maryland estimates that only a small percentage of vessels operate during the off-season, and typically only do so for short day trips. As such, EPA has determined that, because the reduction in pumpout service capacity coincides with a reduction in demand for pumpout services, the available facilities during the off-season months remain adequate and reasonably available to the small number of vessels requiring pumpouts.

Based on the information provided by the State of Maryland and after consideration of the comments received, as well as information otherwise available to EPA, EPA hereby issues a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the thirteen identified waterbodies located in the City of Annapolis and Anne Arundel County and its tributaries such that the State of Maryland may establish a vessel sewage no-discharge zone.

Through this notification, EPA also amends one of the geographic coordinates from an existing no-discharge zone for Perrin River. EPA's final affirmative determination for Sarah Creek and Perrin River, Virginia,

published in the **Federal Register** on September 23, 2020, incorrectly identified one of the coordinates delineating the no-discharge zone boundary at the mouth of the Perrin River as 37°15'47.18" N, 76°25'20.73" W (85 FR 59796). This notification hereby corrects this coordinate to 37°15'43.52" N, 76°25'25.71" W (NAD 83).

**Diana Esher,**

*Acting Regional Administrator, EPA Region III.*

[FR Doc. 2021-09957 Filed 5-10-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[**CERCLA 01-2021-0058; FRL-10023-44-Region 1**]

### Proposed CERCLA Administrative Cost Recovery Settlement: Former Healy School Site, Fall River, Massachusetts

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed settlement; request for public comments.

**SUMMARY:** Notice is hereby given of a proposed administrative cost settlement for recovery of response costs concerning the Former Healy School Site, located in Fall River, Bristol County, Massachusetts, with the Settling Party, Spindle City Homes, Inc. To settle EPA's claim for recovery of response costs, which amount to approximately \$1,577,000, the proposed settlement requires the Settling Party to pay EPA an amount equal to the sale price of the property of \$450,000 minus \$5,000 for attorney fees, reasonable closing costs, reasonable broker's fees and any outstanding real estate taxes or other municipal liens owed to the City of Fall River at the time of the closing. In exchange, EPA will release its lien and provide the Settling Party with a covenant not to sue for the Site. For 30 days following the date of publication of this notice, the Agency will receive written comments relating to the settlement for recovery of response costs.

**DATES:** Comments must be submitted by June 10, 2021.

**ADDRESSES:** Comments should be addressed to Michelle Lauterback, Senior Enforcement Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100 (04-2), Boston, MA 02109-3912, (617) 918-1774, [lauterback.michelle@epagov](mailto:lauterback.michelle@epagov), and should reference the Former Healy

School Site, U.S. EPA Docket No: CERCLA 01-2021-0058.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed settlement may be obtained from Stacy Greendlinger, Superfund and Emergency Management Division, U.S. Environmental Protection Agency, Region I, 5 Post Office Square, Suite 100 (02-2), Boston, MA 02109-3912, telephone number: (617) 918-1403, email address:

[greendlinger.stacy@epa.gov](mailto:greendlinger.stacy@epa.gov). Direct technical questions to Stacy Greendlinger and legal questions to Michelle Lauterback, Office of Regional Counsel, U.S. Environmental Protection Agency, Region I, 5 Post Office Square, Suite 100 (04-2), Boston, MA 02109-3912, telephone number: (617) 918-1774, email address:

[lauterback.michelle@epa.gov](mailto:lauterback.michelle@epa.gov).

**SUPPLEMENTARY INFORMATION:** This proposed administrative settlement for recovery of response costs concerning the Former Healy School Site, located in Fall River, Bristol County, Massachusetts, is made in accordance with Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). EPA covenants not to sue or take administrative action against the Settling Party, Spindle City Homes, Inc., pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for Response Costs. In exchange, the Settling Party agrees to pay to EPA an amount equal to the Net Sale Proceeds minus \$5,000 for attorney fees and expenses. "Net Sale Proceeds" shall mean the \$450,000 sales price set forth in the Purchase and Sale Agreement minus the sum of: (i) Any reasonable closing costs paid regarding the sale; (ii) any reasonable broker's fees regarding the sale; and (iii) any outstanding real estate taxes or other municipal charges owed to the City of Fall River with respect to the Property that are paid to the City of Fall River at the time of closing. Payment of such amount shall be due within 48 hours of the closing of the sale of the property and within 14 days of receiving payment, EPA will provide Settling Party with a release of lien. The Agency will consider all comments received and may modify or withdraw its consent to this cost recovery settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Environmental Protection Agency—Region I, 5 Post Office Square, Suite 100, Boston, MA 02109-3912. The Effective Date of the

Agreement is the date upon which EPA notifies Spindle City Homes, Inc. that the public comment period has closed and that such comments, if any, do not require that EPA modify or withdraw from the Agreement. If the closing of the sale of the Property pursuant to the Purchase and Sale Agreement does not take place on or before November 1, 2021, this Agreement is voidable at the discretion of EPA. The proposed settlement has been approved by the Environmental and Natural Resources Division of the United States Department of Justice.

**Bryan Olson,**

Director, Superfund and Emergency Management Division.

[FR Doc. 2021-09917 Filed 5-10-21; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-OPP-2021-0015; FRL-10023-30]

**Notice of Receipts of Requests to Voluntarily Cancel Certain Pesticide Registrations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been cancelled only if such sale,

distribution, or use is consistent with the terms as described in the final order.

**DATES:** Comments must be received on or before June 10, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2021-0015, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

Submit written withdrawal request by mail to: Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. ATTN: Christopher Green.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Christopher Green, Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 347-0367; email address: [green.christopher@epa.gov](mailto:green.christopher@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action is directed to the public in general and may be of interest to a

wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

**II. What action is the Agency taking?**

This notice announces receipt by the Agency of requests from registrants to cancel certain pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number in Table 1 and Table 1A of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
100-886 .....	100	Bicep Magnum .....	Atrazine & S-Metolachlor.
239-2661 .....	239	Homedefense Indoor & Outdoor Insect Killer 3 .....	Bifenthrin.
239-2687 .....	239	0.3% Bifenthrin Liquid I&O Concentrate .....	Bifenthrin.
239-2698 .....	239	Home Defense Max Perimeter Insect Killer RTS .....	Bifenthrin.
239-2705 .....	239	Ortho Home Defense Max Outdoor Perimeter Insect Killer Ready-Spray II.	Bifenthrin.
279-3056 .....	279	Talstar 2EC Insecticide/Miticide .....	Bifenthrin.
279-3086 .....	279	Talstar 9.8 WSB Insecticide/Miticide .....	Bifenthrin.
279-3087 .....	279	Talstar 9.9 WSB Insecticide/Miticide .....	Bifenthrin.
279-3121 .....	279	Biflex TCC Insecticide .....	Bifenthrin.
279-3122 .....	279	Biflex FTC Termiticide .....	Bifenthrin.
279-3152 .....	279	Biflex Residential Flowable Insecticide/Miticide .....	Bifenthrin.
279-3156 .....	279	Talstar GC Flowable Insecticide/Miticide .....	Bifenthrin.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredients
279-3157 .....	279	Talstar ME Insecticide/Miticide .....	Bifenthrin.
279-3161 .....	279	Talstar RTU Insecticide/Miticide .....	Bifenthrin.
279-3162 .....	279	Talstar Lawn & Tree Flowable Insecticide/Miticide .....	Bifenthrin.
279-3163 .....	279	Talstar 0.2 G Lawn Granular Insecticide .....	Bifenthrin.
279-3166 .....	279	Talstar Fire Ant Destroyer .....	Bifenthrin.
279-3172 .....	279	Talstar 0.05 Lawn Granular Insecticide .....	Bifenthrin.
279-3173 .....	279	Talstar 0.1 Lawn Granular Insecticide .....	Bifenthrin.
279-3193 .....	279	Talstar GH Flowable Insecticide/Miticide .....	Bifenthrin.
279-3197 .....	279	Talstar 0.073 GU Granular Insecticide with Fertilizer ..	Bifenthrin.
279-3198 .....	279	Talstar 0.087 GL Granular Insecticide with Fertilizer ...	Bifenthrin.
279-3199 .....	279	Talstar 0.069 GU Granular Insecticide with Fertilizer ..	Bifenthrin.
279-3200 .....	279	Talstar 0.083 GU Granular Insecticide with Fertilizer ..	Bifenthrin.
279-3205 .....	279	Talstar FT Flowable Termiticide/Insecticide .....	Bifenthrin.
279-3212 .....	279	Talstar 0.069 GCGU Granular Insecticide .....	Bifenthrin.
279-3213 .....	279	Talstar 0.069 GUPT1 Granular Insecticide with 19-0-19 Fertilizer.	Bifenthrin.
279-3224 .....	279	Talstar 0.073 GCGU Granular Insecticide with 19-0-19 Fertilizer.	Bifenthrin.
279-3225 .....	279	Talstar 0.073 GCGUPT1 Granular Insecticide with 19-0-19 Fertilizer.	Bifenthrin.
279-3226 .....	279	Talstar 0.073 GUPT1 Granular Insecticide with 19-0-19 Fertilizer.	Bifenthrin.
279-3235 .....	279	Talstar 0.057 GURR Granular Insecticide with 19-0-19 Fertilizer.	Bifenthrin.
279-3239 .....	279	Talstar 0.03% Granular Insecticide with 18-0-12 Fertilizer.	Bifenthrin.
279-3252 .....	279	FMC 01-0004 Insecticide .....	Bifenthrin.
279-3253 .....	279	FMC 01-0004-2 Insecticide .....	Bifenthrin.
279-3264 .....	279	F1785 GH 50 WG Insecticide .....	Flonicamid.
279-3277 .....	279	F1785 N 50 WG Insecticide .....	Flonicamid.
279-3311 .....	279	Bifenthrin 8% ME Termiticide/Insecticide .....	Bifenthrin.
279-3314 .....	279	F5997 ME Insecticide/Miticide .....	Pyriproxyfen & Bifenthrin.
279-3333 .....	279	F6305 WDG Insecticide .....	Flonicamid & Zeta-Cypermethrin.
279-3335 .....	279	F6320 Granular Insecticide .....	Bifenthrin.
279-3364 .....	279	F8028-1 Aerosol .....	Bifenthrin.
279-3367 .....	279	F6288 SC Liquid Insecticide .....	Bifenthrin & Imidacloprid.
279-9553 .....	279	Intruder Residual with Cyfluthrin .....	Piperonyl butoxide; Pyrethrins & Cyfluthrin.
279-9604 .....	279	Finesse Grass & Broadleaf Herbicide .....	Flucarbazone-sodium & Chlorsulfuron.
352-778 .....	352	Dupont Require Q Herbicide .....	Dicamba & Rimsulfuron.
352-831 .....	352	Dupont DPX-B2856 4.5 Herbicide .....	Glycine, N-(phosphonomethyl)- potassium salt & Glyphosate-isopropylammonium.
400-600 .....	400	Flupro-EC .....	Flumetralin.
432-1407 .....	432	Allectus G Insecticide .....	Bifenthrin & Imidacloprid.
432-1416 .....	432	Allectus GC Granular Insecticide .....	Bifenthrin & Imidacloprid.
432-1418 .....	432	Allectus 0.18 G Plus Turf Fertilizer Insecticide .....	Bifenthrin & Imidacloprid.
432-1419 .....	432	Allectus 0.15 G Plus Turf Fertilizer Insecticide .....	Bifenthrin & Imidacloprid.
432-1421 .....	432	Allectus GC SC Insecticide .....	Bifenthrin & Imidacloprid.
432-1426 .....	432	Allectus 0.18 GC Plus Turf Fertilizer Insecticide .....	Bifenthrin & Imidacloprid.
432-1428 .....	432	Allectus 0.15 GC Plus Turf Fertilizer Insecticide .....	Bifenthrin & Imidacloprid.
499-529 .....	499	TC-251A .....	Permethrin.
499-551 .....	499	TC 251C .....	Permethrin.
2693-60 .....	2693	Fiberglass Bottom Kote 449 Red .....	Cuprous oxide.
3862-158 .....	3862	Weedzout .....	Bromacil, lithium salt.
4959-23 .....	4959	Iosan .....	Nonylphenoxyethoxyethanol-iodine complex & Phosphoric acid.
8329-73 .....	8329	ULV Mosquito Master 2+6 .....	Permethrin & Chlorpyrifos.
8329-115 .....	8329	Phoenix .....	Prallethrin; Phenothrin & Piperonyl butoxide.
9688-227 .....	9688	Chemsico Herbicide Granules AN .....	Atrazine.
9688-274 .....	9688	Chemsico Granules LAH .....	lambda-Cyhalothrin & Atrazine.
10324-89 .....	10324	Maquat MC5814-80% .....	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
10324-139 .....	10324	Maquat TC76-40% .....	Dialkyl* methyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12) & Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324-140 .....	10324	Maquat MQ2525M-CPV .....	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) & Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredients
10324-149 .....	10324	Maquat TC76-80% .....	Dialkyl* methyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12) & Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324-187 .....	10324	Maquat-1010N-10% .....	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
26883-10 .....	26883	High Performance Chem Copp .....	Cuprous oxide.
34704-920 .....	34704	Quinclorac 75DF Herbicide .....	Quinclorac.
42750-41 .....	42750	Dicambazine .....	Atrazine & Dicamba, potassium salt.
42750-44 .....	42750	Atrazine 4L .....	Atrazine.
42750-45 .....	42750	Weed Pro Atrazine 4L Herbicide .....	Atrazine.
42750-50 .....	42750	Brox-AT Herbicide .....	Bromoxynil octanoate & Atrazine.
42750-53 .....	42750	Albaugh Atrazine 90 DF .....	Atrazine.
45168-1 .....	45168	VC 17M Antifouling .....	Copper as elemental.
55467-6 .....	55467	Volley ATZ Lite Tenkoz Herbicide .....	Atrazine & Acetochlor.
55467-7 .....	55467	Volley ATZ Tenkoz Herbicide .....	Atrazine & Acetochlor.
55467-8 .....	55467	Volley Tenkoz Herbicide .....	Acetochlor.
59639-106 .....	59639	Atrazine 90 DF Herbicide .....	Atrazine.
66222-163 .....	66222	N-Lock Nitrogen Stabilizer .....	Nitrapyrin.
70506-214 .....	70506	Super Tin 80WP .....	Fentin hydroxide.
70506-228 .....	70506	Trike .....	Triclopyr, triethylamine salt.
70506-292 .....	70506	UPI Captan 50 WP .....	Captan.
70506-293 .....	70506	UPI Captan 80 WDG .....	Captan.
71368-119 .....	71368	Nufarm Leopard Herbicide .....	Glufosinate.
84009-33 .....	84009	RM43 RTU .....	Imazapyr, isopropylamine salt & Glyphosate-isopropylammonium.
85063-1 .....	85063	Ethylene Release Canister ERC .....	Ethylene.
93923-1 .....	93923	Dicamba Technical .....	Dicamba.
93923-2 .....	93923	Dicamba Diglycolamine Salt SL .....	Dicamba, diglycolamine salt.
93923-3 .....	93923	Dicamba Dimethylamine Salt SL .....	Dicamba, dimethylamine salt.
DE-120005 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.
ID-150010 .....	70506	Hydrothol 191 Aquatic Algicide and Herbicide .....	Endothall, mono(N,N,-dimethyl alkyl amine) salt.
ID-180008 .....	69969	Avipel Hopper Box (Dry) Corn Seed Treatment .....	Anthraquinone.
MN-120002 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.
OK-100003 .....	279	Transport Termiticide-Insecticide .....	Bifenthrin & Acetamiprid.
SD-130004 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.
SD-150007 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.
WI-130003 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.
WI-150005 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.
WY-140002 .....	69969	Avipel (Dry) Corn Seed Treatment .....	Anthraquinone.

TABLE 1A—REGISTRATION WITH PENDING REQUEST FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
1021-2600 .....	1021	Veratran D .....	Sabadilla alkaloids.

The registrant for the pesticide product registration listed in Table 1A has requested to the Agency via letter that the cancellation becomes effective September 30, 2022.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 and Table 1A of this unit, in sequence by EPA company number. This number

corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA company No.	Company name and address
100 .....	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419-8300.
239 .....	The Scotts Company, d/b/a The Ortho Group, 14111 Scottslawn Road, Marysville, OH 43041.
279 .....	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
352 .....	E.I. Du Pont De Nemours and Company, 9330 Zionsville Road, Indianapolis, IN 46268.
400 .....	MacDermid Agricultural Solutions, Inc., Agent Name: UPL NA, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
432 .....	Bayer Environmental Science, A Division of Bayer CropScience, LP, 700 Chesterfield Parkway West, Chesterfield, MO 63017.
499 .....	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709-3528.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA company No.	Company name and address
1021	McLaughlin Gormley King Company, d/b/a MGK, 7325 Aspen Lane N, Minneapolis, MN 55428.
2693	International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
3862	ABC Compounding Co., Inc., P.O. Box 16247, Atlanta, GA 30321.
4959	West Agro, Inc., 11100 N Congress Ave., Kansas City, MO 64153.
8329	Clarke Mosquito Control Products, Inc., 675 Sidwell Court, St. Charles, IL 60174.
9688	Chemsico, A Division of United Industries Corp., P.O. Box 142642, St. Louis, MO 63114-0642.
10324	Mason Chemical Company, 9075 Centre Pointe Dr., Suite 400, West Chester, OH 45069.
26883	American Chemet Corporation, Agent Name: TSG Consulting, 1150 18th Street NW, Suite 1000, Washington, DC 20036.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632-1286.
42750	Albaugh, LLC, 1525 NE 36th Street, Ankeny, IA 50021.
45168	Extensor AB, Agent Name: International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
55467	Tenkoz, Inc., 1725 Windward Concourse, Suite 410, Alpharetta, GA 30005.
59639	Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583.
66222	Makhteshim Agan of North America, Inc., d/b/a Adama, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
69969	Arkion Life Sciences, LLC, Agent Name: Landis International, Inc., 3815 Madison Highway, P.O. Box 5126, Valdosta, GA 31603-5126.
70506	UPL NA, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
71368	NuFarm, Inc., Agent Name: NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Suite 101, Morrisville, NC 27560.
84009	Ragan and Massey, Inc., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th St. Ct. NW, Gig Harbor, WA 98332.
85063	Balchem Corporation, 52 Sunrise Park Road, New Hampton, NY 10958.
93923	Hy-Green, LLC, Agent Name: Wagner Regulatory Associates, Inc., P.O. Box 640, Hockessin, DE 19707.

**III. What is the Agency’s authority for taking this action?**

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or
2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 2 of Unit II have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

**IV. Procedures for Withdrawal of Request**

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER**

**INFORMATION CONTACT.** If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

**V. Provisions for Disposition of Existing Stocks**

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. In any order issued in response to these requests for cancellation of product registrations EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit II.

*A. For Products 400–600, 10324–89, 10324–139, 10324–140, 10324–149, 10324–187, 34704–920, 70506–214, 70506–292 & 70506–293*

For products 400–600, 10324–89, 10324–139, 10324–140, 10324–149, 10324–187, 34704–920, 70506–214, 70506–292 & 70506–293, the registrants have requested 18-months to sell existing stocks. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of these product cancellations, identified in Table 1 of Unit II, EPA anticipates allowing registrants to sell and distribute existing stocks of these voluntarily canceled products for 18-months after the effective date of the publication of the Cancellation Order in the **Federal Register**. Thereafter,

registrants will be prohibited from selling or distributing these products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

*B. For Product 1021–2600*

For product 1021–2600, the registrant has requested that the cancellation becomes effective September 30, 2022. Because the Agency has identified no significant potential risk concerns associated with this pesticide product, upon cancellation of this product cancellation, identified in Table 1A of Unit II, EPA anticipates allowing registrants to sell and distribute existing stocks of these voluntarily canceled products for 1 year after the effective date of the product cancellation, which will be September 30, 2023. Thereafter, registrants will be prohibited from selling or distributing these products identified in Table 1A of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Because the Agency has identified no significant potential risk concerns associated with all the other pesticide products, identified in Table 1 of Unit II, upon cancellation of these product cancellations, EPA anticipates allowing registrants to sell and distribute existing stocks of these voluntarily canceled products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for



proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: May 4, 2021.

**Marietta Echeverria,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 2021-09938 Filed 5-10-21; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than May 26, 2021.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional*

*accounts that are sponsored, managed, or advised by Vanguard; to acquire additional voting shares of First Midwest Bancorp, Inc., and thereby indirectly acquire additional voting shares of First Midwest Bank, both of Chicago, Illinois.*

2. *The Cheryl Foote Groenendyke Trust No. 1, Cheryl Foote Groenendyke, as trustee, Inky Investments, L.C., Cheryl Foote Groenendyke, as manager, the Richard A. Groenendyke, Jr. Revocable Trust, and Richard A. Groenendyke Jr., as trustee, all of Tulsa, Oklahoma; the Shingleton Family Limited Partnership, Bradford Shingleton and Barbara Foote Shingleton, as general partners, and Rebecca Shingleton, all of Boston, Massachusetts; the Donkersloot-Foote Family Trust, Darci Foote and John Donkersloot, as co-trustees, all of Brighton, Michigan; the Foote Shingleton 2004 Irrevocable Trust, Kenneth J. Foote, as trustee, the Kenneth J. Foote Trust No. 1, Kenneth J. Foote, as trustee, Alexander Kirby Foote, Lark Allison Foote, Juliet Ann Foote, and Blythe Esther Foote, all of Okemos, Michigan; Foote Capital, LLC, Susan Foote and Stephen L. Feinberg, as co-managers, all of El Paso, Texas, and Kenneth J. Foote, also a co-manager, Okemos, Michigan; the Kenneth J. Foote Trust No. 2, Amy A. Payne, as co-trustee, both of Okemos, Michigan, and Iris Foote, Howell, Michigan, and Charlotte Fitzpatrick, Souderton, Pennsylvania, both co-trustees of the aforementioned trust; the BFS 2020 Delaware Trust, First Republic Bank of Delaware, as trustee, both of Wilmington, Delaware, and Barbara Foote Shingleton, Investment Direction Adviser, Boston, Massachusetts; the Rhonda Foote Judy Michigan Asset Trust, Rhonda Foote Judy, as trustee, both of Houston, Texas; the Mamie M. Foote Trust No. 1, Mamie M. Foote, as trustee, both of Golden Oaks, Florida; Charlotte Lynne Fitzpatrick, Souderton, Pennsylvania; Benjamin Aaron Foote, Chicago, Illinois; Jennifer Ewing, Chestnut Hill, Massachusetts; Iris Foote, Howell, Michigan, and Elizabeth Glomsrud, Rancho Santa Fe, California; all to become members of the Foote Family Control Group, a group acting in concert, to retain the voting shares of First National Bancshares, Inc., and thereby indirectly retain voting shares of First National Bank of America, both East Lansing, Michigan.*

Board of Governors of the Federal Reserve System, May 6, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021-09944 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

[Docket No. OP-1747]

### Proposed Guidelines for Evaluating Account and Services Requests

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is requesting comment on proposed guidelines (Account Access Guidelines) to evaluate requests for accounts and services at Federal Reserve Banks (Reserve Banks).

**DATES:** Comments on the proposed changes must be received on or before July 12, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. OP-1747, by any of the following methods:

- *Agency Website:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- *Email:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at [www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm](http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm) as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Jason Hinkle, Assistant Director (202-912-7805), Division of Reserve Bank Operations and Payment Systems, or Sophia Allison, Senior Special Counsel (202-452-3565) or Gavin Smith, Senior Counsel (202-872-7578), Legal Division, Board of Governors of the Federal Reserve System. For users of Telecommunications Device for the Deaf (TDD) only, please contact 202-263-4869.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Board of Governors of the Federal Reserve System (Board) is considering adopting guidelines (Account Access Guidelines) to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests for master accounts and/or access to Federal Reserve Bank financial services (accounts and services). The Board's approach to this proposal reflects its analysis of the Board's policy goals of (1) ensuring the safety and soundness of the banking system, (2) effectively implementing monetary policy, (3) promoting financial stability, (4) protecting consumers, and (5) promoting a safe, efficient, inclusive, and innovative payment system. The Board's proposed guidelines are also intended to ensure that Reserve Banks evaluate a transparent and consistent set of factors when reviewing requests for accounts and services (access requests).

The payments landscape is evolving rapidly as technological progress and other factors are leading to both the introduction of new financial products and services and to different ways of providing traditional banking services (*i.e.*, payments, deposit-taking, and lending). Relatedly, there has been a recent uptick in novel charter types being authorized or considered across the country and, as a result, the Reserve Banks are receiving an increasing number of inquiries and requests for access to accounts and services from novel institutions.

Although the Reserve Banks have received such inquiries on an exceptional basis in the past, the Board now believes, given the increase in the number and novelty of such inquiries, that a more transparent and consistent approach to such requests should be adopted by the Reserve Banks. Given that access decisions made by individual Reserve Banks can have implications for a wide array of Federal Reserve System (Federal Reserve) policies and objectives, a structured, transparent, and detailed framework for evaluating access requests would benefit the financial system broadly. Such a framework would also help foster consistent evaluation of access requests, from both risk and policy perspectives, across all twelve Reserve Banks.

To help achieve the goal of applying a transparent and consistent process for all access requests, the Board is proposing guidelines for the Reserve Banks to evaluate such requests. The proposed account access guidelines contain six principles that would support consistency in approach and decision-making across Reserve Banks while maintaining Reserve Bank

discretionary authority to grant or deny requests. Accordingly, the proposed guidelines would reduce the potential for forum shopping across Reserve Banks and mitigate the risk that individual decisions by Reserve Banks could create de facto System policy for a particular business model or risk profile. These risk-focused guidelines would also promote more consistent implementation for eligible institutions with similar risk profiles.

The proposed account access guidelines are centered on a foundation of risk management and mitigation. In developing the proposed guidelines, the Board considered the risks that may arise when an institution gains access to accounts and services. These risks include, among others, risks to the Reserve Banks, to the payment system, to the financial system, and to the effective implementation of monetary policy.

The introduction to the proposed guidelines discusses the Federal Reserve's broad policy goals when providing accounts and services as well as the reasons for proposing to issue the account access guidelines. In addition, the introduction provides that while the guidelines are designed primarily for new access requests, Reserve Banks should also apply the guidelines to existing account and services relationships when a Reserve Bank becomes aware of a significant change in the risks that the account holder presents due to changes in the nature of its principal business activities, condition, etc.

The proposed account access guidelines identify potential risks and prompt the Reserve Bank to identify risk mitigation strategies adopted by the institution (including capital, risk frameworks, compliance with regulations, and supervision) and by the Reserve Bank (including account agreement provisions, restrictions on financial services accessed, account risk controls, and denial of access requests). The first principle specifies that only institutions that are legally eligible for accounts and services are in scope, and the remaining five principles are designed to address specific risks ranging from narrow risks (such as risk to an individual Reserve Bank) to broader risks (such as risk to the U.S. financial system).<sup>1</sup> The Board is considering whether it may in the future

<sup>1</sup> The proposed guidelines are designed as a risk management framework and, as such, the principles focus on risks an institution's access could pose. The Board notes, however, that an institution's access could have net benefits to the financial system that are not a focus of the risk management framework.

be useful to clarify the interpretation of legal eligibility under the Federal Reserve Act for a Federal Reserve account and services.

For each of these principles, the proposed guidelines identify factors that Reserve Banks should consider when evaluating an institution against the specific risk targeted by the principle (several factors are pertinent to more than one principle). The identified factors are commonly used in the regulation and supervision of federally-insured institutions. When applying the account access guidelines the Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile. Given that the proposed guidelines utilize factors broadly applied to federally-insured institutions, the Board anticipates the application of the guidelines to access requests by federally-insured institutions would be fairly straightforward in most cases. Reserve Bank assessments of access requests from non-federally-insured institutions, however, may require more extensive due diligence.

Currently, Reserve Bank risk management practices include monitoring the condition of institutions with accounts and services on an ongoing basis using supervisory ratings, capitalization data, and other supplementary information. Reserve Banks use this process to determine whether risk controls or other restrictions should be placed on an institution's account. For example, the process is used to determine if an institution continues to remain eligible for primary credit. The Board anticipates that, if the proposed guidelines are adopted, Reserve Banks would use the guidelines to re-evaluate the risks posed by an institution in cases where these condition-monitoring activities indicate potential changes in the institution's risk profile.

## II. Proposed Guidelines

### *Guidelines Covering Access to Accounts and Services at Federal Reserve Banks (Account Access Guidelines)*

The Board of Governors of the Federal Reserve System (Board) has adopted account access guidelines comprised of six principles to be used by Federal Reserve Banks (Reserve Banks) in evaluating requests for master accounts and access to Federal Reserve Bank financial services (access requests).<sup>2,3</sup>

<sup>2</sup> As discussed in the Federal Reserve's Operating Circular No. 1, an institution has the option to settle its Federal Reserve financial services transactions in

The account access guidelines apply to requests from all institutions that are legally eligible to receive an account or services, as discussed in more detail in the first principle.<sup>4</sup>

The Federal Reserve System's (Federal Reserve) approach to providing institutions with accounts and services depends on, among other things, whether the institution is legally eligible to obtain an account and on the Federal Reserve's policy goals of ensuring the safety and soundness of the banking system, effectively implementing monetary policy, promoting financial stability, protecting consumers, and promoting a safe, effective, efficient, accessible and innovative payment system. The Board believes it is important to make clear that legal eligibility does not bestow a right to obtain an account and services. While decisions regarding individual access requests remain at the discretion of the individual Reserve Banks, the Board believes it is important that the Reserve Banks apply a consistent set of guidelines when reviewing such access requests to promote consistent outcomes across Reserve Banks and to facilitate equitable treatment across institutions.

These account access guidelines also serve to inform requestors of the factors that a Reserve Bank will review in any access request and thereby allow requestors to make any enhancements to its risk management, documentation, or other practices, as the case may be, to attempt to demonstrate how it meets each of these factors for review.

These guidelines broadly outline considerations for evaluating access requests but are not intended to provide assurance that any specific institution will be granted an account and services. The individual Reserve Bank will evaluate each access request on a case-by-case basis. When applying these account access guidelines, the Reserve Bank should incorporate to the extent possible the assessments of an institution by state and/or federal

supervisors into its independent analysis of the institution's risk profile. The evaluation of an institution's access request should also consider whether the request has the potential to set a precedent that could affect the Federal Reserve's ability to achieve its policy goals now or in the future.

If the Reserve Bank decides to grant an access request, it may impose (at the time of account opening, granting access to service, or any time thereafter) obligations relating to, or conditions or limitations on, use of the account or services as necessary to limit operational, credit, legal, or other risks posed to the Reserve Banks, the payment system, financial stability or the implementation of monetary policy or to address other considerations.<sup>5</sup> The account-holding Reserve Bank may, at its discretion, decide to place additional risk management controls on the account and services, such as real-time monitoring of account balances, as it may deem necessary to mitigate risks. If the obligations, limitations, or controls are ineffective in mitigating the risks identified or if the obligations, limitations, or controls are breached, the account-holding Reserve Bank may further restrict the institution's use of accounts and services or may close the account. Establishment of an account and provision of services by a Reserve Bank under these guidelines is not an endorsement or approval by the Federal Reserve of the institution. Nothing in the Board's guidelines relieves any institution from compliance with obligations imposed by the institution's supervisors and regulators.

Accordingly, Reserve Banks should evaluate how each institution requesting an account and services will meet the following principles.<sup>6</sup> Each principle identifies factors that Reserve Banks should consider when evaluating an institution against the specific risk targeted by the principle (several factors are pertinent to more than one principle). The identified factors are commonly used in the regulation and supervision of federally-insured institutions. As a result, the Board anticipates the application of the account access guidelines to access

requests by federally-insured institutions will be fairly straightforward in most cases. However, Reserve Bank assessments of access requests from non-federally insured institutions may require more extensive due diligence.

Reserve Banks monitor and analyze the condition of institutions with accounts and services on an ongoing basis. Reserve Banks should use the guidelines to re-evaluate the risks posed by an institution in cases where its condition monitoring and analysis indicate potential changes in the risk profile of an institution, including a significant change to the institution's business model.

1. Each institution requesting an account or services must be eligible under the Federal Reserve Act or other federal statute to maintain an account at a Federal Reserve Bank (Reserve Bank) and receive Federal Reserve services and should have a well-founded, clear, transparent, and enforceable legal basis for its operations.<sup>7</sup>

a. Unless otherwise specified by federal statute, only those entities that are member banks or meet the definition of a depository institution under section 19(b) of the Federal Reserve Act are legally eligible to obtain Federal Reserve accounts and financial services.<sup>8</sup>

b. The Reserve Bank should assess the consistency of the institution's activities and services with applicable laws and regulations, such as Article 4A of the Uniform Commercial Code and the Electronic Fund Transfer Act. The Reserve Bank should also consider whether the design of the institution's services would impede compliance by the institution's customers with U.S. sanction programs, Bank Secrecy Act (BSA) and anti-money-laundering (AML) requirements or regulations, or consumer protection laws and regulations.

2. Provision of an account and services to an institution should not present or create undue credit, operational, settlement, cyber or other risks to the Reserve Bank.

<sup>7</sup> These principles do not apply to accounts provided by a Reserve Bank as depository and fiscal agent for the Treasury and for certain government-sponsored entities (12 U.S.C. 391, 393-95, 1823, 1435) as well as to accounts provided to certain international organizations (22 U.S.C. 285d, 286d, 290o-3, 290i-5, 290l-3), to designated financial market utilities (12 U.S.C. 5465), pursuant to the Board's Regulation N (12 CFR 214), or to the Board's Guidelines for Evaluating Joint Account Requests.

<sup>8</sup> These principles apply to account requests from member banks or other entities that meet the definition of a depository institution under section 19(b), as well as Edge and Agreement corporations (12 U.S.C. 601-604a, 611-631), and branches and agencies of foreign banks (12 U.S.C. 347d).

its master account with a Reserve Bank or in the master account of another institution that has agreed to act as its Correspondent. These principles apply to requests for either arrangement.

<sup>3</sup> Reserve Bank financial services mean all services subject to Federal Reserve Act, section 11A ("priced services") and Reserve Bank cash services. Financial services do not include transactions conducted as part of the Federal Reserve's open market operations or administration of the Reserve Banks' Discount Window.

<sup>4</sup> These principles would not apply to accounts provided under fiscal agency authority or to accounts authorized pursuant to the Board's Regulation N (12 CFR 214), joint account requests, or account requests from designated financial market utilities, since existing rules or policies already set out the considerations involved in granting these types of accounts.

<sup>5</sup> The conditions imposed could include, but are not limited to, paying a different rate of interest on balances held in the account, limiting the amount of balances on which interest is paid, or establishing a cap on the amount of balances held in the account.

<sup>6</sup> The principles are designed to address risks posed by an institution having access to an account and services, ranging from narrow risks (*e.g.*, to an individual Reserve Bank) to broader risks (*e.g.*, to the overall economy). Review activities performed by the Reserve Bank may address several principles at once.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements to ensure that the institution operates in a safe and sound manner, during both normal conditions and periods of idiosyncratic and market stress.

i. For these purposes, effective risk management includes having a robust framework, including policies, procedures, systems, and qualified staff, to manage applicable risks. The framework should at a minimum identify, measure, and control the particular risks posed by the institution's business lines, products and services. The effectiveness of the framework should be further supported by internal testing and internal audit reviews.

ii. The framework should be subject to oversight by a board of directors (or similar body) as well as oversight by state and/or federal banking supervisor(s).

iii. The framework should clearly identify all risks that may arise related to the institution's business (e.g., legal, credit, liquidity, operational, custody, investment) as well as objectives regarding the risk tolerances for the management of such risks.

c. The Reserve Bank should confirm that the institution is in substantial compliance with its supervisory agency's regulatory and supervisory requirements.

d. The institution must, in the Reserve Bank's judgment:

i. Demonstrate an ability to comply, were it to obtain a master account, with Board orders and policies, Reserve Bank agreements and operating circulars, and other applicable Federal Reserve requirements.

ii. Be in sound financial condition, including maintaining adequate capital to continue as a going concern and to meet its current and projected operating expenses under a range of scenarios.

iii. Demonstrate the ability, on an ongoing basis (including during periods of idiosyncratic or market stress), to meet all of its obligations in order to remain a going concern and comply with its agreement for a Reserve Bank account and services, including by maintaining:

A. Sufficient liquid resources to meet its obligations to the Reserve Bank under applicable agreements, operating circulars, and Board policies;

B. The operational capacity to ensure that such liquid resources are available to satisfy all such obligations to the Reserve Bank on a timely basis; and

C. Settlement processes designed to appropriately monitor balances in its Reserve Bank account on an intraday basis, to process transactions through its account in an orderly manner and maintain/achieve a positive account balance before the end of the business day.

iv. Have in place an operational risk framework designed to ensure operational resiliency against events associated with processes, people, and systems that may impair the institution's use and settlement of Reserve Bank services. This framework should consider internal and external factors, including operational risks inherent in the institution's business model, risks that might arise in connection with its use of any Reserve Bank account and services, and cyber-related risks. At a minimum, the operational risk framework should:

A. Identify the range of operational risks presented by the institution's business model (e.g., cyber vulnerability, operational failure, resiliency of service providers), and establish sound operational risk management objectives to address such risks;

B. Establish sound governance arrangements, rules, and procedures to oversee and implement the operational risk management framework;

C. Establish clear and appropriate rules and procedures to carry out the risk management objectives;

D. Employ the resources necessary to achieve its risk management objectives and implement effectively its rules and procedures, including, but not limited to, sound processes for physical and information security, internal controls, compliance, program management, incident management, business continuity, audit, and well-qualified personnel; and

E. Support compliance with the electronic access requirements, including security measures, outlined in the Reserve Banks' Operating Circular 5 and its supporting documentation.

3. Provision of an account and services to an institution should not present or create undue credit, liquidity, operational, settlement, cyber or other risks to the overall payment system.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements to limit the impact that idiosyncratic stress, disruptions, outages, cyber incidents or other incidents at the institution might have on other institutions and the payment system broadly. The framework should include:

i. Clearly defined operational reliability objectives and policies and procedures in place to achieve those objectives.

ii. A business continuity plan that addresses events that have the potential to disrupt operations and a resiliency objective to ensure the institution can resume services in a reasonable timeframe.

iii. Policies and procedures for identifying risks that external parties may pose to sound operations, including interdependencies with affiliates, service providers, and others.

c. The Reserve Bank should identify actual and potential interactions between the institution's use of a Reserve Bank account and services and (other parts of) the payment system.

i. The extent to which the institution's use of a Reserve Bank account and services might restrict funds from being available to support the liquidity needs of other institutions should also be considered.

d. The institution must, in the Reserve Bank's judgment:

i. Be in sound financial condition, including maintaining adequate capital to continue as a going concern and to meet its current and projected operating expenses under a range of scenarios.

ii. Demonstrate the ability, on an ongoing basis (including during periods of idiosyncratic or market stress), to meet all of its obligations in order to remain a going concern and comply with its agreement for a Reserve Bank account and services, including by maintaining:

A. Sufficient liquid resources to meet its obligations to the Reserve Bank under applicable agreements, Operating Circulars, and Board policies;

B. The operational capacity to ensure that such liquid resources are available to satisfy all such obligations to the Reserve Bank on a timely basis; and

C. Settlement processes designed to appropriately monitor balances in its Reserve Bank account on an intraday basis, to process transactions through its account in an orderly manner and maintain/achieve a positive account balance before the end of the business day.

iii. Have in place an operational risk framework designed to ensure

operational resiliency against events associated with processes, people, and systems that may impair the institution's payment system activities. This framework should consider internal and external factors, including operational risk inherent in the institution's business model, risk that might arise in connection with its use of the payment system, and cyber-related risks. At a minimum, the framework should:

A. Identify the range of operational risks presented by the institution's business model (e.g., cyber vulnerability, operational failure, resiliency of service providers), and establish sound operational risk-management objectives;

B. Establish sound governance arrangements, rules, and procedures to oversee the operational risk management framework;

C. Establish clear and appropriate rules and procedures to carry out the risk management objectives;

D. Employ the resources necessary to achieve its risk management objectives and implement effectively its rules and procedures, including, but not limited to, sound processes for physical and information security, internal controls, compliance, program management, incident management, business continuity, audit, and well-qualified personnel.

4. Provision of an account and services to an institution should not create undue risk to the stability of the U.S. financial system.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should determine, in coordination with the other Reserve Banks and Board, whether the access to an account and services by an institution itself or a group of like institutions could introduce financial stability risk to the U.S. financial system.

c. The Reserve Bank should confirm that the institution has an effective risk management framework and governance arrangements for managing liquidity, credit, and other risks that may arise in times of financial or economic stress.

d. The Reserve Bank should consider the extent to which, especially in times of financial or economic stress, liquidity or other strains at the institution may be transmitted to other segments of the financial system.

e. The Reserve Bank should consider the extent to which, especially during times of financial or economic stress,

access to an account and services by an institution itself (or a group of like institutions) could affect deposit balances across U.S. financial institutions more broadly and whether any resulting movements in deposit balances could have a deleterious effect on U.S. financial stability.

i. Balances held in Reserve Bank accounts are high-quality liquid assets, making them very attractive in times of financial or economic stress. For example, in times of stress, investors that would otherwise provide short-term funding to nonfinancial firms, financial firms, and state and local governments could rapidly withdraw that funding and instead deposit their funds with an institution holding mostly central bank balances. If the institution is not subject to capital requirements similar to a federally-insured institution, the potential for sudden and significant deposit inflows into that institution is particularly large, which could disintermediate other parts of the financial system, greatly amplifying stress.

5. Provision of an account and services to an institution should not create undue risk to the overall economy by facilitating activities such as money laundering, terrorism financing, fraud, cybercrimes, or other illicit activity.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should confirm that the institution has an anti-money-laundering program consistent with the requirements in 31 CFR 1020.210(b) and complies with the Office of Foreign Asset Control (OFAC) regulations at 31 CFR Chapter V.

i. For these purposes, the Reserve Bank should confirm that these compliance programs contain the following elements:

A. A system of internal controls, including policies and procedures, to ensure ongoing BSA/AML and OFAC compliance, including regular written risk assessments to identify, analyze and address the risks the institution faces, policies, procedures, and an effective transaction-monitoring system;

B. Independent audit and testing of BSA/AML and OFAC compliance;

C. Senior management commitment to BSA/AML and OFAC compliance, including, at a minimum: (a) The designation of a specific person or persons responsible for managing BSA/AML and OFAC compliance, including the employment of an experienced BSA/

AML and OFAC compliance officer; (b) senior management review and approval of the institution's BSA/AML and OFAC compliance programs; (c) the institution's compliance staff has sufficient authority and autonomy to deploy policies and procedures in a manner that effectively controls the institution's BSA/AML and OFAC risk; and (d) senior management taking, and demonstrating that it will continue to take, steps to ensure that the institution's compliance unit receives adequate resources;

D. Ongoing training for appropriate personnel with a scope that is appropriate for the products and services the institution offers; and

E. Processes that allow for a risk-based classification of its customer base, including risk-based procedures for conducting ongoing customer due diligence.

6. Provision of an account and services to an institution should not adversely affect the Federal Reserve's ability to implement monetary policy.

a. The Reserve Bank should incorporate, to the extent possible, the assessments of an institution by state and/or federal supervisors into its independent assessment of the institution's risk profile.

b. The Reserve Bank should determine, in coordination with the other Reserve Banks and the Board, whether access to an account and services by an institution itself or a group of like institutions could have an effect on the implementation of monetary policy.

c. The Reserve Bank should consider, among other things, whether access to a Reserve Bank account and services by the institution could affect the level and variability of the demand for and supply of reserves, the level and volatility of key policy interest rates, the structure of key short-term funding markets, and on the overall size of the consolidated balance sheet of the Reserve Banks. The Reserve Bank should consider the implications of providing an account to the institution in normal times as well as in times of stress. This consideration should occur regardless of the current monetary policy implementation framework in place.

### III. Request for Comment

The Board requests comment on all aspects of the proposed account access guidelines, including: (1) Whether the scope and application of the proposed guidance are sufficiently clear and appropriate to achieve their intended purpose; and (2) suggesting/identifying other criteria or information that commenters believe may be relevant to

evaluate accounts and services requests under the proposed guidance. The Board further seeks comment specifically on the following aspects of the proposed guidance:

1. Do the proposed account access guidelines address all the risks that would be relevant to the Federal Reserve's policy goals?
2. Does the level of specificity in each principle provide sufficient clarity and transparency about how the Reserve Banks will evaluate requests?
3. Do the proposed account access guidelines support responsible financial innovation?

Finally, the Board also seeks comment on whether the Board or the Reserve Banks should consider other steps or actions to facilitate the review of requests for accounts and services in a consistent and equitable manner.

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2021-09873 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW,

Washington DC 20551-0001, not later than May 26, 2021.

*A. Federal Reserve Bank of Dallas* (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire additional voting shares of Prosperity Bancshares, Inc., Houston, Texas, and thereby indirectly acquire additional voting shares of Prosperity Bank, El Campo, Texas.

*B. Federal Reserve Bank of New York* (Ivan Hurwitz, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001. Comments can also be sent electronically to

*Comments.applications@ny.frb.org:*

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire additional voting shares of Community Bank System, Inc., DeWitt, New York, and thereby indirectly acquire additional voting shares of Community Bank, National Association, Canton, New York.

*C. Federal Reserve Bank of San Francisco* (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105-1579:

1. *The Vanguard Group, Inc., Malvern, Pennsylvania; on behalf of itself, its subsidiaries and affiliates, including investment companies registered under the Investment Company Act of 1940, other pooled investment vehicles, and institutional accounts that are sponsored, managed, or advised by Vanguard;* to acquire additional voting shares of Westamerica Bancorporation, and thereby indirectly acquire voting shares of Westamerica Bank, both of San Rafael, California.

*D. Federal Reserve Bank of Kansas City* (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *The Frank L. Bruning Nonqualifying Trust Share ("FL Bruning Trust"), Fred D. Bruning, Bruning, Nebraska, and Jane A. Tonniges, Omaha, Nebraska, as co-trustees, and the Mary B. Bruning Revocable Trust ("MB Bruning Trust"), Mary B. Bruning,*

*as co-trustee, both of Bruning, Nebraska; to retain voting shares of Bruning Bancshares, Inc., and indirectly retain voting shares of Bruning Bank, both of Bruning, Nebraska. Additionally, the Jane A. Tonniges Revocable Trust, Jane A. Tonniges, as trustee, and Christopher Tonniges, all of Omaha, Nebraska; the Fred D. Bruning 2020 Irrevocable Trust, Penni J. Bruning, trustee, both of Bruning, Nebraska, and Dennis C. Stara, special purpose trustee, Lincoln, Nebraska; Adam F. Bruning, Hebron, Nebraska; Reiss L. Bruning, Bruning, Nebraska; and Dennis C. Stara, Lincoln, Nebraska; with the FL Bruning Trust and the MB Bruning Trust, to join the Bruning Family Group, a group acting in concert, to retain voting shares of Bruning Bancshares, Inc., and indirectly retain voting shares of Bruning Bank.*

Board of Governors of the Federal Reserve System, May 5, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021-09880 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission (FTC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FTC requests that the Office of Management and Budget (OMB) extend for three years the current Paperwork Reduction Act (PRA) clearance for information collection requirements contained in the Commission's rules and regulations under the Textile Fiber Products Identification Act (Textile Rules). That clearance expires on May 31, 2021.

**DATES:** Comments must be received by June 10, 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](http://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. The [reginfo.gov](http://www.reginfo.gov) web link is a United States Government website produced by OMB and the General Services Administration (GSA). Under PRA requirements, OMB's Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

**FOR FURTHER INFORMATION CONTACT:** Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC-9528, 600 Pennsylvania Ave. NW, Washington, DC 20580, (202) 326-2984.

**SUPPLEMENTARY INFORMATION:**

*Title:* Rules and Regulations under the Textile Fiber Products Identification Act, 16 CFR part 303.

*OMB Control Number:* 3084-0101.

*Type of Review:* Extension of a currently approved collection.

*Likely Respondents:* Manufacturers, importers, processors and marketers of textile fiber products.

*Frequency of Response:* Third party disclosure; recordkeeping requirement.

*Estimated annual hours burden:* 37,234,317 hours (1,180,725 recordkeeping hours + 36,053,592 disclosure hours).

*Recordkeeping:* 1,180,725 hours (approximately 18,165 textile firms incur average burden of 65 hours per firm)

*Disclosure:* 36,053,592 hours (621,725 hours to determine label content + 765,200 hours to draft and order labels + 34,666,667 hours to attach labels)

*Estimated annual cost burden:* \$243,170,994 (solely relating to labor costs).<sup>1</sup>

*Abstract:* The Textile Fiber Products Identification Act (Textile Act)<sup>2</sup> prohibits the misbranding and false advertising of textile fiber products. The Textile Rules establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Rules. The Rules also contain a petition procedure for requesting the establishment of generic names for textile fibers.

**Request for Comment**

On February 23, 2021, the FTC sought public comment on the information collection requirements associated with the Rule. 86 FR 10967. The Commission received no germane comments. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule.

<sup>1</sup> Due to newly available information on hourly wage rates, the estimated annual labor costs were adjusted downward from \$280,335,935 in the 60-Day FR Notice to \$243,170,994 in the 30-Day FR Notice.

<sup>2</sup> 15 U.S.C. 70 *et seq.*

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

**Josephine Liu,**

*Assistant General Counsel for Legal Counsel.*  
[FR Doc. 2021-09925 Filed 5-10-21; 8:45 am]

**BILLING CODE 6750-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Agency for Healthcare Research and Quality**

**Solicitation for Nominations for Membership To Serve on Initial Review Group for Scientific Peer Review**

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Request for nominations for membership to serve on initial review group for scientific peer review.

**SUMMARY:** This is to invite the public to nominate members to the Agency for Healthcare Research and Quality (AHRQ) Initial Review Group (IRG) responsible for the scientific peer review of AHRQ grant applications. The AHRQ IRG conducts scientific and technical review for health services research grant applications and is comprised of five subcommittees or study sections, each with a particular research focus. AHRQ is seeking nominations for scientific reviewers in specific competency domains to evaluate grant applications.

**DATES:** Nominations should be received on or before June 1, 2021.

**ADDRESSES:** Nominations should be submitted by email to: Priti Mehrotra, M.Sc., Ph.D., Director, Division of Scientific Review, AHRQ. Email: [priti.mehrotra@ahrq.hhs.gov](mailto:priti.mehrotra@ahrq.hhs.gov).

**FOR FURTHER INFORMATION CONTACT:** Priti Mehrotra, M.Sc., Ph.D., AHRQ, (301) 427-1556 or by email at [priti.mehrotra@ahrq.hhs.gov](mailto:priti.mehrotra@ahrq.hhs.gov).

**SUPPLEMENTARY INFORMATION:** This is to invite the public to nominate members to the Agency for Healthcare Research and Quality (AHRQ) Initial Review Group (IRG) responsible for the scientific peer review of AHRQ grant applications. AHRQ is required to conduct appropriate scientific peer review of grant applications pursuant to 42 U.S.C. 299c-1. The AHRQ IRG conducts scientific and technical review for health services research grant applications and is comprised of five subcommittees or study sections, each with a particular research focus. AHRQ is seeking nominations for scientific reviewers in specific competency domains to evaluate grant applications.

AHRQ's mission is to produce evidence to make health care safer, higher quality, more accessible, equitable, and affordable, and to work within the U.S. Department of Health and Human Services (DHHS) and with other partners to make sure that the evidence is understood and used. AHRQ works to fulfill its mission by supporting health services research, evaluation, demonstration, dissemination, and training grants.

The peer review of AHRQ grant applications involves an assessment conducted by panels of qualified experts established according to scientific disciplines or medical specialty areas. Members of the IRG will be selected based upon their training and experience in relevant scientific and technical fields, taking in account, among other factors: (1) The level of formal education and pertinent expertise and experience; (2) extent of engagement in relevant research; (3) extent of professional recognition; (4) need for specialization in relevant field; and (5) appropriate representation based on gender, racial/ethnic origin, and geography. See 42 CFR 67.15(a)(2).

The IRG is comprised of five subcommittees, or study sections, each with a particular emphasis around which peer reviewer expertise is assembled. AHRQ seeks nominations for each of the subcommittee competency domains described below:

*Health Care Effectiveness and Outcomes Research:* End-stage renal

disease; cardiovascular disease; pediatrics; pharmacologist in opioid management; biostatisticians in health services research; health disparities and social determinants of health.

*Healthcare Safety and Quality Improvement Research:* Pharmacists with expertise in informatics; infectious diseases specialists; geriatricians; surgeons with a specialty in diagnostic error; health disparities and social determinants of health.

*Healthcare Information Technology Research:* Biomedical and consumer health informatics; family medicine; health care data analysis; health information technology; health services research in patient-oriented research; electronic health record and data for research; population-based studies in medicine; epidemiology; telehealth/telemedicine; emergency medicine; insurance benefit design; chronic condition care; natural language processing and machine learning; social networking and its determinants of health; health disparities and social determinants of health.

*Healthcare Systems and Value Research:* Health statistics; health care outcome research; evaluation and survey methods; health system and service research; health care policy research; health economics research; large database analysis; private health insurance/Medicaid and Medicare; learning laboratory development; health disparities and social determinants of health.

*Health Care Research Training:* Clinician with knowledge of health policy; Medicare and Medicaid; addiction medicine; health disparities and social determinants of health.

Additional study section descriptive information can be found here:

*Study Section Rosters:* <http://www.ahrq.gov/funding/process/study-section/peerrev>.

*Study Section Descriptions:* <http://www.ahrq.gov/funding/process/study-section/peerdesc>.

*Study Section Research Foci:* <http://www.ahrq.gov/funding/process/study-section/resfoci>.

Interested individuals may nominate themselves, and organizations and individuals may nominate one or more qualified persons for study section membership. A diversity of perspectives is valuable to AHRQ's work. To help obtain a diversity of perspectives among nominees, AHRQ encourages nominations of women and members of minority populations. AHRQ also seeks broad geographic representation. All nominations must be submitted electronically, and should include:

1. A copy of the nominee's current curriculum vitae and contact information, including mailing address, phone number, and email address.

2. Preferred study section assignment.

Dated: May 5, 2021.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2021-09879 Filed 5-10-21; 8:45 am]

**BILLING CODE 4160-90-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10774 & CMS-10008]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by July 12, 2021.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or

Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: CMS-P-0015A, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786-4669.

#### SUPPLEMENTARY INFORMATION:

##### Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-10744—The International Classification of Diseases, 10th Revision, Procedure Coding System (ICD-10-PCS)

CMS-10008—Transitional Pass through payments related to Drugs, Biologicals, and Radiopharmaceuticals to determine eligibility under the Outpatient Prospective Payment System

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.



## Information Collection

### 1. *Type of Information Collection*

*Request:* New collection (Request for a new control number); *Title of Information Collection:* The International Classification of Diseases, 10th Revision, Procedure Coding System (ICD-10-PCS); *Use:* The HIPAA Act of 1996 required CMS to adopt standards for coding systems that are used for reporting health care transactions. The Transactions and Code Sets final rule (65 FR 50312) published in the **Federal Register** on August 17, 2000 adopted the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Volumes 1 and 2 for diagnosis codes and ICD-9-CM Volume 3 for inpatient hospital services procedures as standard code sets for use by covered entities (health plans, health care clearinghouses, and those health care providers who transmit any health information in electronic form in connection with a transaction for which the Secretary has adopted a standard).

The ICD-10-PCS code set has been maintained, enhanced and expanded as a direct result of recommendations for updates (e.g., adding new codes, deleting codes, and editing descriptive material related to existing codes) received from interested stakeholders from both the public and private sectors. Thus, information collected in the application is significant to code set maintenance. The ICD-10-PCS code set maintenance is an ongoing process, as changes are implemented and updated; therefore, the process requires continual collection of information from applicants on a bi-annual basis. As new technology evolves and new complex medical procedures are developed, requests are submitted to CMS requesting modifications to the ICD-10-PCS code set. Requests have been received prior to HIPAA implementation and must continue to be collected to facilitate quality decision-making.

The Committee provides two meetings each year as a public forum to discuss proposed changes to ICD-10. Suggestions to CMS for ICD-10-PCS procedure code modifications come from both the public and private sectors. ICD-10-PCS modification requests can be proposals for new or revised procedure codes or requests for technical coding updates including but not limited to, enhancements to existing procedure code concepts, such as adding a new body part value or a new approach value. Requestors are asked to include a description of the procedure code or change being requested, and

rationale for why the procedure code or change is needed. Supporting references and literature may also be submitted. Interested parties submit these ICD-10-PCS modification requests three months prior to a scheduled Spring or Fall C&M meeting via email to the following email address: [ICDProcedureCodeRequest@cms.hhs.gov](mailto:ICDProcedureCodeRequest@cms.hhs.gov). *Form Number:* CMS-10744 (OMB control number: 0938-New); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions and Private Sector; *Number of Respondents:* 80; *Total Annual Responses:* 80; *Total Annual Hours:* 800. (For policy questions regarding this collection contact Marilu Hue at 410-786-4510.)

### 2. *Type of Information Collection*

*Request:* Revision of a currently approved collection; *Title of Information Collection:* Transitional Pass through payments related to Drugs, Biologicals, and Radiopharmaceuticals to determine eligibility under the Outpatient Prospective Payment System; *Use:* Section 201(b) of the BBRA 1999 amended section 1833(t) of the Act by adding new section 1833(t)(6). This provision requires the Secretary to make additional payments to hospitals for a period of 2 to 3 years for certain drugs, radiopharmaceuticals, biological agents, medical devices and brachytherapy devices. Section 1833(t)(6)(A)(iv) establishes the criteria for determining the application of this provision to new items. Section 1833(t)(6)(C)(i) provides that the additional payment for drugs and biologicals be the amount by which the amount determined under section 1842(o) of the Act exceeds the portion of the otherwise applicable hospital outpatient department fee schedule amount that the Secretary determines to be associated with the drug or biological.

Interested parties such as hospitals, pharmaceutical companies, and physicians will apply for transitional pass-through payment for drugs, biologicals, and radiopharmaceuticals used with services covered under the hospital OPSS. After we receive all requested information, we will evaluate the information to determine if the criteria for making a transitional pass-through payment are met and if an interim healthcare common procedure coding system (HCPCS) code for a new drug, biological, or radiopharmaceutical is necessary. We will advise the applicant of our decision, and update the hospital OPSS during its next scheduled quarterly update to reflect any newly approved drug, biological, or radiopharmaceutical. We list below the information that we will require from all

applicants. *Form Number:* CMS-10008 (OMB control number: 0938-0802); *Frequency:* Yearly; *Affected Public:* Private Sector; *Number of Respondents:* 30; *Total Annual Responses:* 30; *Total Annual Hours:* 480. (For policy questions regarding this collection contact Raymond A. Bulls at 410-786-7267.)

Dated: May 5, 2021.

**William N. Parham, III**,  
*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2021-09908 Filed 5-10-21; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; The Maternal, Infant, and Early Childhood Home Visiting Program Pay for Outcomes Supplemental Information Request, OMB NO. 0906-XXXX NEW

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with of the Paperwork Reduction Act of 1995, HRSA has submitted a Supplemental Information Request (SIR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this SIR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this SIR should be received no later than June 10, 2021.

**ADDRESSES:** Submit your comments, including the SIR Title, to the desk officer for HRSA, either by email to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) or by fax to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call (301) 443-1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the Information Collection Request title for reference.

*Information Collection Request Title:* Maternal, Infant, and Early Childhood Home Visiting Program Pay for Outcomes Supplemental Information Request, OMB NO. 0906–XXXX, NEW

*Abstract:* HRSA is requesting approval to collect information in response to a SIR which will include eligible entities' plans for implementation and evaluation of Pay for Outcomes (PFO) initiatives to be applied for through the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program. The Bipartisan Budget Act of 2018 (Pub. L. 115–123) added subsection (c)(3) to Section 511 of the Social Security Act, 42 U.S.C. 711. The new provision authorizes MIECHV Program funding recipients to use up to 25 percent of the funds awarded under subsection 511(c)(1) "to enable eligible entities to deliver services under early childhood home visitation programs" for "outcomes or success payments related to a pay for outcomes initiative that will not result in a reduction of funding for services delivered by the entity under a childhood home visitation program under this section while the eligible entity develops or operates such an initiative." Subsection 511(j)(3)(B) further requires that "funds made available to an eligible entity under this section for a fiscal year (or portion of a fiscal year) for a pay for outcomes initiative shall remain available for expenditure by the eligible entity for not more than 10 years after the funds are so made available."

Eligible entities may propose to use MIECHV funds for outcomes or success payments related to a PFO initiative in response to the fiscal year 2021 MIECHV Notice of Funding Opportunity and in succeeding fiscal years pending availability of future funds, the recipient must submit a detailed application that responds to the forthcoming SIR (henceforth this application is referred to as a PFO SIR Response).

A 60-day notice was published in the **Federal Register** on July 8, 2020. HRSA received four comments. Comments sought clarification on guidance related to third-party evaluation, selection of outcome measures, partnership agreements, budgeting PFO funds, annual reports, and maintenance of service delivery. Other comments highlighted topics that would benefit from specific technical assistance, indicated support for various aspects of the guidance, or offered suggestions that were outside the intended scope of the guidance. After taking the public comments into consideration, HRSA is proposing final revisions to the PFO SIR Guidance by making the following changes:

- Revising the SIR to further describe expectations and best practices associated with conducting feasibility studies and ensuring independence and accountability in the process. HRSA will not specify credentials or level of experience of evaluators or researchers, allowing recipients to have flexibility to determine what will work best for their context.

- Revising the SIR to further clarify that applicants are to select outcome measure(s) that will have meaningful impacts for the children and families served.

- Editing the SIR to broaden the requirements around obtaining signed partnership agreements so that a draft agreement or letter of intent, as well as a signed partnership agreement, would be acceptable.

- Revising the SIR to clarify that recipients can set aside funds awarded in multiple years as part of its PFO initiative. Recipients must propose a PFO project extending over the project period of the entire initiative, and must work closely with HRSA to ensure appropriate monitoring of use of funds for this purpose over the 10-year period of availability.

- Revising the SIR to clarify that the required annual reports must be made available to the public and removing language that may suggest that the annual reports will include outcomes that have been achieved and/or payments made.

- Revising the SIR to clarify the expectation that recipients must continue to meet program and model fidelity requirements with no reduction of funding for services. HRSA will further develop and apply criteria as part of the review and approval process of any proposed PFO initiatives to ensure PFO initiatives have no negative impact on high-quality service delivery.

*Need and Proposed Use of the Information:* Congress, through enactment of the Social Security Act, Title V, Section 511 (42 U.S.C. 711), as amended, established the MIECHV Program. The MIECHV Program is designed to (1) strengthen and improve the programs and activities carried out under Title V of the Social Security Act, (2) improve coordination of services for at risk communities, and (3) identify and provide comprehensive services to improve outcomes for families who reside in at risk communities. The MIECHV Program, authorized by section 511 of the Social Security Act, 42 U.S.C. 711, and administered by HRSA, in partnership with the Administration for Children and Families, supports voluntary, evidence-based home visiting services during pregnancy and to

parents with young children up to kindergarten entry. States, territories, tribal entities, and in certain circumstances, nonprofit organizations are eligible to receive funding through MIECHV and have the flexibility, within the parameters of the authorizing statute, to tailor the program to serve the specific needs of their communities.

Section 50605 of the Bipartisan Budget Act (BBA) of 2018 (Pub. L. 115–123) added new Section 511(c)(3), which authorizes MIECHV recipients the option to use up to 25 percent of MIECHV funding for "outcomes or success payments related to a PFO initiative that will not result in reduction of funding for home visiting services. The new authority establishes new requirements, including that the PFO initiative "will not result in a reduction of funding for services delivered by the entity under a childhood home visitation program under this section while the eligible entity develops or operates such an initiative." Under Section 511(j)(3)(A), funds used by recipients for a PFO initiative remain available for expenditure by the eligible entity for not more than 10 years after the funds are made available.

In response to the forthcoming SIR, MIECHV recipients planning to use MIECHV grant funds for outcomes or success payments related to a PFO initiative will be required to submit a PFO SIR Response outlining how their plans will meet all of the applicable statutory requirements and identifying what specific MIECHV funds (*e.g.*, fiscal year 2021 formula funding) they propose to use to (1) develop and implement their PFO initiative and (2) make PFO outcomes or success payments based on the planned PFO initiative.

Regarding a PFO initiative, the MIECHV authorizing statute requires the following:

(1) A PFO initiative may not result in a reduction of funding for services delivered by the entity under a childhood home visitation program under this section while the eligible entity develops or operates such an initiative (section 711(c)(3)); and

(2) The PFO initiative for which outcome or success payments may be made must include:

(a) A feasibility study that describes how the proposed intervention is based on evidence of effectiveness;

(b) A rigorous, third-party evaluation that uses experimental or quasi-experimental design or other research methodologies that allow for the strongest possible causal inferences to determine whether the initiative has met its proposed outcomes as a result of implementation;

(c) An annual, publicly available report on the progress of the initiative; and

(d) A requirement that payments are made to the recipient of the grant, contract, or cooperative agreement only when agreed upon outcomes are achieved, excluding payments made to a third party conducting the evaluation.

See 42 U.S.C. 711(k)(4).

The forthcoming SIR will provide further instructions to recipients in proposing a PFO initiative and submitting the required information to HRSA. Recipients are not required to propose or implement a PFO initiative, but if they wish to do so, they must submit a PFO SIR Response describing how their PFO initiative will meet all of the applicable statutory requirements. HRSA will use the information collected

through the PFO SIR Response to ensure that MIECHV recipients' proposals to use grant funds for PFO initiatives meet statutory requirements and to provide technical assistance to recipients. The implementation of a PFO initiative is not intended to disrupt current services or negatively impact communities that have benefited from home visiting programs and must not result in a reduction of funding for home visiting services.

*Likely Respondents:* MIECHV Program recipients that are states, territories, and, where applicable, nonprofit organizations providing home visiting services within states.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions and supporting materials; to collect and analyze data and information to develop the PFO SIR Response; engage with stakeholders and coordinate with state level partners; and to draft and submit the PFO SIR Response. The table below summarizes the total annual burden hours estimated for this SIR.

Total Estimated Annualized Burden Hours:

Instrument	Number of respondents	Number of responses per respondent	Total responses	Average burden hours per response	Total burden hours
MIECHV PAY FOR OUTCOMES SIR .....	15	1	15	92	1,380
Total .....	15	.....	15	.....	1,380

HRSA specifically requests comments on (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.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2021-09910 Filed 5-10-21; 8:45 am]

**BILLING CODE 4165-15-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; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

*Date:* May 17, 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 Fisher Lane, Room 3G45, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Vanitha Sundaresa Raman, 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 3G45, Rockville, MD 20852, 301-761-7949, [vanitha.raman@nih.gov](mailto:vanitha.raman@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. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 5, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-09913 Filed 5-10-21; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Center for Scientific Review; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR-20-131: Mammalian Models for Translational Research.

*Date:* June 7, 2021.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, (301) 272-4596, [smileyja@csr.nih.gov](mailto:smileyja@csr.nih.gov).

*Name of Committee:* Vascular and Hematology Integrated Review Group; Basic

Biology of Blood, Heart and Vasculature Study Section.

*Date:* June 8–9, 2021.

*Time:* 9:00 a.m. to 9:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Ashlee Tipton, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 451–3849, [ashlee.tipton@nih.gov](mailto:ashlee.tipton@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Immunology Research.

*Date:* June 10–11, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Mehrdad Mohseni, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7854, Bethesda, MD 20892, (301) 435–0484, [mohsenim@csr.nih.gov](mailto:mohsenim@csr.nih.gov).

*Name of Committee:* Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

*Date:* June 10–11, 2021.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jenny R Browning, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 5207, Bethesda, MD 20892, (301) 402–8197, [jenny.browning@nih.gov](mailto:jenny.browning@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Regulatory Science B.

*Date:* June 11, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Pamela Jeter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 10J08, Bethesda, MD 20892, (301) 435–2591, [pamela.jeter@nih.gov](mailto:pamela.jeter@nih.gov).

*Name of Committee:* Cell Biology Integrated Review Group; Membrane Biology and Protein Processing Study Section.

*Date:* June 14–15, 2021.

*Time:* 10:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kevin Czaplinski, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–0000, [czaplinski2@csr.nih.gov](mailto:czaplinski2@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Chemistry, Biochemistry and Macromolecular Biophysics.

*Date:* June 14–15, 2021.

*Time:* 11:00 a.m. to 5:00 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:* Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1180, [ruvinser@csr.nih.gov](mailto:ruvinser@csr.nih.gov).

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review; Group Learning, Memory and Decision Neuroscience Study Section.

*Date:* June 17–18, 2021.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Roger Janz, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, [janrz2@csr.nih.gov](mailto:janrz2@csr.nih.gov).

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group; Clinical Data Management and Analysis Study Section.

*Date:* June 17–18, 2021.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Chittari V Shivakumar, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 408–9098, [chittari.shivakumar@nih.gov](mailto:chittari.shivakumar@nih.gov).

*Name of Committee:* Infectious Diseases and Immunology B Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.

*Date:* June 17–18, 2021.

*Time:* 9:30 a.m. to 9:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4203, Bethesda, MD 20892, (301) 435–3566, [mulky@mail.nih.gov](mailto:mulky@mail.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:* May 6, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–09923 Filed 5–10–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Drug Abuse; 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 Drug Abuse Special Emphasis Panel, Genetic Analysis of Non-Human Animal Models to Understand the Genomic Architecture of Substance Use Disorders and Addictive Behaviors (U01 Clinical Trial Not Allowed).

*Date:* June 10, 2021.

*Time:* 12:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Ipolia R. Ramadan, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–4471, [ramadanir@mail.nih.gov](mailto:ramadanir@mail.nih.gov).

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA) (R21).

*Date:* June 11, 2021.

*Time:* 10:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC

6021, Bethesda, MD 20892, (301) 496-9350, [sheila.pirooznia@nih.gov](mailto:sheila.pirooznia@nih.gov).

*Name of Committee:* National Institute on Drug Abuse Initial Review Group; Medication Development Research Study Section.

*Date:* July 21, 2021.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Preethy Nayar, Ph.D., M.B.B.S., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, 301-443-4577, [nayarp2@csr.nih.gov](mailto:nayarp2@csr.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

*Dated:* May 5, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-09915 Filed 5-10-21; 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; A multidisciplinary approach to study vaccine-elicited immunity and efficacy against malaria (U01 Clinical Trial Not Allowed),

*Date:* June 2-3, 2021,

*Time:* 9:30 a.m. to 2:00 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 3G22, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Inka I Sastalla, 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 3G22, Rockville, MD 20852, 301-761-6431, [inka.sastalla@nih.gov](mailto:inka.sastalla@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:* May 5, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-09914 Filed 5-10-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Fogarty International Center; 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 Fogarty International Center Advisory Board.

The meeting will be open to the public via online meeting. 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 virtual 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:* Fogarty International Center Advisory Board.

*Date:* June 7-8, 2021.

*Closed:* June 07, 2021, 12:00 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate the second level of grant applications.

*Place:* Fogarty International Center, National Institutes of Health, 31 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Open:* June 08, 2021, 12:00 p.m. to 3:00 p.m.

*Agenda:* Update and discussion of current and planned Fogarty International Center activities.

*Place:* Fogarty International Center, National Institutes of Health, 31 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

*Meeting Access:* <https://www.fic.nih.gov/About/Advisory/Pages/default.aspx>.

*Contact Person:* Kristen Weymouth, Executive Secretary, Fogarty International Center, National Institutes of Health, 31 Center Drive, Room B2C02, Bethesda, MD 20892-7952, 301-496-1415, [kristen.weymouth@nih.gov](mailto:kristen.weymouth@nih.gov).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://www.fic.nih.gov/About/Advisory/Pages/default.aspx>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.106, Minority International Research Training Grant in the Biomedical and Behavioral Sciences; 93.154, Special International Postdoctoral Research Program in Acquired Immunodeficiency Syndrome; 93.168, International Cooperative Biodiversity Groups Program; 93.934, Fogarty International Research Collaboration Award; 93.989, Senior International Fellowship Awards Program, National Institutes of Health, HHS)

*Dated:* May 5, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-09912 Filed 5-10-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2020-0051]

#### Privacy Act of 1974; System of Records

**AGENCY:** Science and Technology Directorate, U.S. Department of Homeland Security.

**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the U.S. Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled, "DHS/Science & Technology Directorate (S&T)-003 National Bioforensic Analysis Center Laboratory Elimination Database System of Records." This system of records describes DHS/S&T's collection, use, and maintenance of records on

individuals who come into contact with or are in proximity to the National Bioforensic Analysis Center (NBFAC), a center within one of DHS's National Laboratories, or NBFAC biological samples or material. This newly established system will be included in DHS's inventory of record systems.

**DATES:** Submit comments on or before June 10, 2021. This new system will be effective upon publication. Routine uses will be effective June 10, 2021.

**ADDRESSES:** You may submit comments, identified by docket number DHS-2020-0051 by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-343-4010.

- *Mail:* Lynn Parker Dupree, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528-0655.

*Instructions:* All submissions received must include the agency name and docket number DHS-2020-0051. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: Maria Petrakis, (202) 254-7748, [STPrivacy@hq.dhs.gov](mailto:STPrivacy@hq.dhs.gov), S&T Privacy Officer, the Science and Technology Directorate, Mail Stop: 0205, U.S. Department of Homeland Security, 245 Murray Lane SW, Washington, DC 20528. For privacy questions, please contact: Lynn Parker Dupree, (202) 343-1717, [Privacy@hq.dhs.gov](mailto:Privacy@hq.dhs.gov), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528-0655.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the U.S. Department of Homeland Security (DHS) Science & Technology Directorate (S&T) proposes to establish a new DHS system of records titled, "DHS/S&T-003 National Bioforensic Analysis Center Laboratory Elimination Database System of Records." The National Bioforensic Analysis Center (NBFAC) is a laboratory within one of DHS's National Laboratories, the National Biodefense Analysis and Countermeasures Center (NBACC). DHS/S&T and the Department of Justice (DOJ) Federal Bureau of Investigation Laboratory Division (FBI-

LD) collaborate on NBACC operations and management, including NBFAC. DHS designated NBFAC to be the lead federal facility to conduct and facilitate the technical forensic analysis and interpretation of materials recovered following a biological attack. NBFAC performs research, development, testing, and evaluation (RDT&E) activities to develop bioforensic capabilities and casework analysis in support of FBI law enforcement investigations requiring bioforensic analytic capabilities.

DHS/S&T uses the NBFAC Laboratory Elimination Database for contamination detection and prevention. The NBFAC Laboratory Elimination Database provides the capability to ensure that human deoxyribonucleic acid (DNA) sequences identified and reported in NBFAC's operational casework or RDT&E activities are not the result of accidental contamination by a person who has been in contact with or in proximity to NBFAC or its evidence, or RDT&E samples or biological material derived from the samples.

DHS/S&T establishes the database to collect, organize, store, maintain, and query information about laboratory-based or specimen-processing individuals to determine whether a contamination event may have occurred and which individual or individuals may be the source of an unintended contaminant present within a controlled environment, experiment, or scientific process. DHS/S&T also will use the database for contamination prevention purposes to identify, correct, and prevent the recurrence of the nonconformity that led to the contamination event. NBFAC compares individuals' information from the database to identify the possible source of a contaminant that may affect NBFAC's analytic results. NBFAC collects information from individuals, on a voluntary basis, who NBFAC has determined may be in a position to inadvertently contaminate samples or the biological materials derived from samples.

The database segregates data by core function and tracing function. Core function data consists of unique NBFAC-assigned identifiers and associated DNA. Tracing function data includes biographic information on the individual (*e.g.*, name, institution, position, contact information, biological sex, or physical sample location), enabling NBFAC to link core data to an individual, as needed, pursuant to NBFAC standard operating procedures.

DHS S&T creates this system of records in accordance with the authorities granted by 6 U.S.C. 182 for conducting basic and applied research,

development, demonstration, testing, and evaluation activities that are relevant to any or all elements of DHS, through intramural and extramural programs. In addition, National Security Presidential Memorandum 14, Support for National Biodefense, and the National Biodefense Strategy serve as the primary authorities for the bioforensic work NBFAC performs in its laboratories. NBFAC uses the elimination database to ensure the accuracy of analytic results and improve laboratory procedures, as warranted, by evaluating and remediating any nonconformities that may have resulted in contamination.

NBFAC has taken steps to minimize the potential risks posed by the loss and/or unauthorized access, use, modification, destruction, or disclosure of individuals' information by adopting administrative, technical, and physical controls. NBFAC also takes steps to ensure the quality of the data NBFAC collects by collecting the information directly from the individual. The data S&T collects is the minimum relevant data needed for the contamination detection and prevention purposes of this system of records.

NBFAC limits access to the information by segregating the data into a core function and a tracing function. The core function is the data maintained and used to monitor and control for contamination purposes. NBFAC cannot identify an individual based on the core function data only. NBFAC would need the tracing function biographic information to be able to identify an individual, when necessary. NBFAC stores the tracing function data separately. For example, if a match is made between a DNA record from the core function data and a suspected contaminant, if needed, NBFAC may retrieve additional information on the individual (*e.g.*, name, institution, position, contact information, biological sex, or physical sample location) from a separate tracing function area in the database, in accordance with NBFAC the database standard operating procedure.

Consistent with DHS's information sharing mission, information stored in the DHS/S&T-003 National Bioforensic Analysis Center Laboratory Elimination Database System of Records may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/S&T may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies

consistent with the routine uses set forth in this system of records notice. This newly established system will be included in DHS's inventory of record systems.

## II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/S&T-003 National Bioforensic Analysis Center Laboratory Elimination Database System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

### SYSTEM NAME AND NUMBER:

U.S. Department of Homeland Security (DHS)/Science & Technology Directorate (S&T)-003 National Bioforensic Analysis Center Laboratory Elimination Database System of Records.

### SECURITY CLASSIFICATION:

Unclassified and Classified.

### SYSTEM LOCATION:

Records are maintained at NBFAC within NBACC at Ft. Detrick, MD.

### SYSTEM MANAGER(S):

Director, Office of National Laboratories, Science & Technology Directorate, U.S. Department of Homeland Security, Room #10-027, S&T Division, Mail Stop: 0205, 245 Murray Lane SW, Washington, DC 20528-0205, (202)-254-8227.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Homeland Security Act of 2002, Public Law 107-296, Sec. 302 (codified at 6 U.S.C. 182); National Security Presidential Memorandum 14, Support for National Biodefense, and the National Biodefense Strategy; the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, 118 Stat. 3638, sec. 8306 (Dec. 2004), 6 U.S.C. 112 note, 6 CFR part 46, and 42 U.S.C. 300v-1, and 45 CFR part 46, subpart A, to the extent an activity meets the definition of research on human subjects.

### PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to determine whether a contamination event may have occurred related to NBFAC's operational casework or RDT&E activities; and if so, which individual or individuals may be the source of an unintended contaminant present within a controlled environment, experiment, or scientific process, and to prevent the recurrence of the nonconformity that led to contamination event.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NBFAC personnel and non-NBFAC personnel that have access to the laboratory, including maintenance, instrument service personnel and visitors, and non-NBFAC personnel that may have had contact with items prior to the commencement of the controlled activities.

The NBFAC individuals include: (1) NBFAC evidence handlers, chain of custody staff, technicians, principal investigators, engineers, safety staff, security staff, maintenance staff, and internal auditors that handle evidence items, or biological material derived from evidence items, or access DNA-sensitive NBFAC laboratories; and (2) FBI staff that handle evidence items, or biological material derived from evidence items, or access DNA-sensitive NBFAC laboratories.

Individuals external to NBFAC include non-NBFAC personnel who are evidence collectors and handlers and casework technicians who handle evidence or derived biological materials prior to their arrival at NBFAC, engineers and technicians that access DNA-sensitive NBFAC laboratories to install or maintain equipment, auditors/inspectors that access DNA-sensitive NBFAC laboratories, and visitors granted access to DNA-sensitive NBFAC laboratories.

### CATEGORIES OF RECORDS IN THE SYSTEM:

- Individual's full name;

- Unique NBFAC identifier for the individual;

- An external partner's personal identifier for information about an individual, other than a name, (e.g., employee identification number or badge number);

- Institutional or organizational affiliation;

- Institutional or organizational position;

- Contact information including, phone numbers, email addresses, physical addresses;

- Individual's biological sex;

- Individual's collected DNA sample and the sample's physical location information (stored and maintained in the database); and

- Individual's DNA sequence data, but not the full genome sequence.

### RECORD SOURCE CATEGORIES:

Records are obtained from NBFAC and non-NBFAC personnel. External partner agencies may provide information about their personnel who have been in contact or proximity to NBFAC DNA-sensitive laboratories or its biological samples or material.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other federal agencies conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management

inspections being conducted under the authority of 44 U.S.C. secs. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when (1) DHS suspects or has confirmed that there has been a breach of the system of records; (2) DHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To another federal agency or federal entity, when DHS 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.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

I. To a federal agency for a statistical or research purpose, including the

development of methods or resources to support statistical or research activities, provided that the records support DHS programs and activities that relate to the purpose(s) stated in this SORN, and will not be used in whole or in part in making any determination regarding an individual's rights, benefits, or privileges under federal programs, or published in any manner that identifies an individual.

J. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, when (1) the NBACC has entered into an agreement with such agency to process samples on behalf of the agency, (2) either NBACC or the partner agency has reason to believe a contamination event has occurred, and (3) the partner agency demonstrates to NBACC that the contamination event relates to or affects a law enforcement investigation, and (4) NBACC determines that release of the records would assist in identifying and resolving a contamination event.

K. To appropriate federal, state, local, tribal, or foreign governmental agencies or multilateral governmental organizations, with the approval of the Chief Privacy Officer, when DHS is aware of a need to use relevant data, that relate to the purpose(s) stated in this SORN, for purposes of testing new technology.

L. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

DHS/S&T typically stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

DHS/S&T may retrieve records by name, NBFAC identifier, or other personal identifier.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

DHS/S&T has proposed a records retention schedule to NARA. DHS/S&T proposes a 20-year retention period for (1) records generated for use in law enforcement cases, with the potential for appeal; and (2) records in research and development files or projects, not used in law enforcement cases, to allow time to evaluate their historic significance.

In some instances, DHS/S&T seeks permanent retention for records in significant law enforcement cases or projects involving novel or complex issues, public interest, media attention, or congressional scrutiny and a five-year retention period for records that document compliance with International Organization for Standardization (ISO) 17025 requirements to carry out tests and/or calibrations, including sampling.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

DHS/S&T safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS/S&T has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to and notification of any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Component Privacy Officer or Component Freedom of Information Act Officer, whose contact information can be found at <http://www.dhs.gov/foia> under "Contact Information." If an individual believes more than one component maintains Privacy Act records concerning him or her, or if the request is for records maintained at a DHS Headquarters office, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, U.S. Department of Homeland Security, Washington, DC 20528-0655, or electronically at <https://>



[www.dhs.gov/dhs-foia-privacy-act-request-submission-form](http://www.dhs.gov/dhs-foia-privacy-act-request-submission-form). Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. An individual may obtain more information about this process at <http://www.dhs.gov/foia>. In addition, the individual should, whenever possible:

- Describe the records sought, including any circumstances or reasons why the Department would have information being requested;
- Identify which component(s) of the Department or Department Headquarters Office he or she believes may have the information;
- Specify the timeline when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS Headquarters Office or component agency may have responsive records;

If the request is seeking records pertaining to another living individual, the request must include a statement from the living individual verifying the identity of the individual, as described in the verification steps above, and provide a statement from the living individual certifying the individual's agreement that records concerning the individual may be released to you.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

#### CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, individuals may make a request for amendment or correction of a record of the Department about the individual by writing directly to the Department component that maintains the record, unless the record is not subject to amendment or

correction. The request should identify each particular record in question, state the amendment or correction desired, and state why the individual believes that the record is not accurate, relevant, timely, or complete. The individual may submit any documentation that would be helpful. If the individual believes that the same record is in more than one system of records, the request should state that and be addressed to each component that maintains a system of records containing the record. Even if neither the Privacy Act nor the Judicial Redress Act provide a right of access, individuals may seek to amend records following the "access procedures" above. DHS/S&T, in its discretion, may choose to make the requested amendment. However, neither this system of records notice, nor DHS/S&T's making a requested amendment, confers to individuals any right to access, contest, or amend records not covered by the Privacy Act or Judicial Redress Act.

#### NOTIFICATION PROCEDURES:

See "Record Access Procedures" above.

#### EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None. When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated.

#### HISTORY:

N/A.

\* \* \* \* \*

#### Lynn Parker Dupree,

Chief Privacy Officer, U.S. Department of Homeland Security.

[FR Doc. 2021-09937 Filed 5-10-21; 8:45 am]

BILLING CODE 9110-9F-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7038-N-05]

### 60-Day Notice of Proposed Information Collection: Multifamily Insurance Benefits Claims Package; OMB Control No.: 2502-0418

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the

Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* July 12, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

#### FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone 202-402-3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

#### A. Overview of Information Collection

*Title of Information Collection:* Multifamily Insurance Benefits Claims Package.

*OMB Approval Number:* 2502-0418.

*OMB Expiration Date:* 06/30/2021.

*Type of Request:* Revision of a currently approved collection.

*Form Numbers:* HUD-2741; HUD-2742; HUD-2744-A; HUD-2744-B; HUD-2744-C; HUD-2744-D; HUD-2744-E; HUD-434; HUD-1044-D.

*Description of the need for the information and proposed use:* A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for FHA Multifamily insurance benefits with the Department. HUD needs this

information to determine if FHA multifamily insurance claims submitted to HUD are accurate, valid and support payment of an FHA multifamily insurance claim.

*Respondents:* Business or other for-profit; State, Local, or Tribal Government.

*Estimated Number of Respondents:* 110.

*Estimated Number of Responses:* 110.

*Frequency of Response:* Occasion.

*Average Hours per Response:* 6.25.

*Total Estimated Burden:* 688 hours.

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

## C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

### Janet Golrick,

*Acting, Chief of Staff for the Office of Housing—Federal Housing Administration.*

[FR Doc. 2021-09958 Filed 5-10-21; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Geological Survey

[GX21GL00DT7ST00; OMB Control Number 1028-0087]

### Agency Information Collection Activities; National Geological and Geophysical Data Preservation Program (NGGDPP) Grant Opportunity

**AGENCY:** U.S. Geological Survey, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 12, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to [gs-info\\_collections@usgs.gov](mailto:gs-info_collections@usgs.gov). Please reference OMB Control Number 1028-0087 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Michaela Johnson by email at [mrjohns@usgs.gov](mailto:mrjohns@usgs.gov), or by telephone at (720) 250-8763.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

*Abstract:* This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding under the NGGDPP. We will accept proposals from state geological surveys requesting funds to inventory and assess the condition of current collections and data preservation needs. Financial assistance will be awarded annually on a competitive basis following the evaluation and ranking of state proposals by a review panel composed of representatives from the U.S. Department of the Interior, state geological surveys, and academic institutions. To submit a proposal, respondents must complete a project narrative and submit the application via [www.grants.gov](http://www.grants.gov). Grant recipients must complete a final technical report at the end of the project period. Narrative and report guidance is available at <https://datapreservation.usgs.gov>, <https://grants.gov>, and <https://grantsolutions.gov>.

Annual data preservation priorities are provided in the Program Announcement as guidance for applicants to consider when submitting proposals. Since its inception in 2007, NGGDPP has awarded 46 states with \$12 million, which, when matched or exceeded by the states, amounts to over \$24 million invested in the rescue and preservation efforts. This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, "Data and information to be made available to the public or for limited inspection." Responses are voluntary. No questions of a "sensitive" nature are asked. We intend to release the project abstracts and identify states for awarded/funded projects only.

*Title of Collection:* National Geological and Geophysical Data Preservation Program (NGGDPP).

*OMB Control Number:* 1028-0087.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* All state geological surveys may apply for NGGDPP grants.

*Total Estimated Number of Annual Respondents:* 35.

*Total Estimated Number of Annual Responses:* 70 (35 applications, 35 final technical report submissions).

*Estimated Completion Time per Response:* Grant application time estimate is 80 hours; final technical report completion time estimate is 10 hours.

*Total Estimated Number of Annual Burden Hours:* 3,150.

*Respondent's Obligation:* Required to Obtain a Benefit.

*Frequency of Collection:* Annually.

*Total Estimated Annual Non-hour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Michaela Johnson,**

*NGGDPP Associate Program Coordinator.*

[FR Doc. 2021-09909 Filed 5-10-21; 8:45 am]

**BILLING CODE 4338-11-P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NRNL-DTS#-31877;  
PPWOCRADIO, 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 May 1, 2021, for listing or related actions in the National Register of Historic Places.

**DATES:** Comments should be submitted electronically by May 26, 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 May 1, 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:

### CALIFORNIA

#### Riverside County

Palm Springs Municipal Airport Terminal, 3400 East Tahquitz Canyon Way, Palm Springs, SG100006618

### CONNECTICUT

#### Fairfield County

Whistleville Historic District, Ely and Lexington Aves, Hemlock and Lubrano Pls., Knapp, Kossuth, Laura, Olean, Oxford and Snowden Sts., Norwalk, SG100006641

### OHIO

#### Fairfield County

Dairy Barn-Boys' Industrial School, (Federal and State Correctional Institutions in Ohio MPS), 5900 B.I.S. Rd., Lancaster vicinity, MP100006636

Drill Hall-Boys' Industrial School, (Federal and State Correctional Institutions in Ohio MPS), 5900 B.I.S. Rd., Lancaster vicinity, MP100006637

#### Ross County

Administration Building-United States Industrial Reformatory, (Federal and State Correctional Institutions in Ohio MPS), 15802 OH 104 North, Chillicothe vicinity, MP100006638

#### Union County

Harmon Building-Ohio Reformatory for Women, (Federal and State Correctional Institutions in Ohio MPS), 1479 Collins Ave., Marysville, MP100006639

### OKLAHOMA

#### Kay County

Clem and Cliff Filling Station, 220 South 4th St., Ponca City, SG100006622  
Collins, Samuel Junior, House, 1204 East Central Ave., Ponca City, SG100006623  
Collins, Samuel Senior, House, 1004 East Central Ave., Ponca City, SG100006624  
Miller, George and Margaret, House, 1300 South 8th St., Ponca City, SG100006625  
Wesleyan Methodist Church, 300 East Brookfield Ave., Ponca City, SG100006626

#### Oklahoma County

Automobile Alley Historic District (Boundary Increase), North side of 000 Block of NW 6th St., Oklahoma City, BC100006627

Lyons, Sidney and Mary, House and Commercial Historic District, 300-304 NE 3rd St., 316 North Central Ave., Oklahoma City, SG100006628  
Whittier School, 1900 NW 10th St., Oklahoma City, SG100006629

### Payne County

Lytton Building-Masonic Hall, 907-909 South Main St., Stillwater, SG100006630

### Tulsa County

100 Block North Greenwood Avenue Historic District, 100 Block of North Greenwood Ave., Tulsa, SG100006631  
Daniel Webster High School Historic District, 1919 West 40th St., Tulsa, SG100006632  
Holland Hall Upper School, 5666 East 81st St., Tulsa, SG100006633

### RHODE ISLAND

#### Providence County

Stedman & Fuller Manufacturing Company Complex, 49 Westfield St., Providence, SG100006644

### TEXAS

#### Travis County

Wells, Willie, House, 1705 Newton St., Austin, SG100006621

### VERMONT

#### Addison County

Vergennes Station House, 572 VT 22A, Ferrisburgh, SG100006640

A request for removal has been made for the following resources:

### MICHIGAN

#### Berrien County

Snow Flake Motel, 3822 Red Arrow Hwy., Lincoln Township, OT98000270

### NORTH DAKOTA

#### Grand Forks County

Northwood Bridge, (Historic Roadway Bridges of North Dakota MPS), Across the Goose R., unnamed Cty. Rd., 1.5 mi. SW of Northwood, Northwood vicinity, OT97000175

Additional documentation has been received for the following resource:

### NORTH CAROLINA

#### Wake County

Haywood, Dr. Hubert Benbury and Marguerite Manor, House (Additional Documentation), 634 North Blount St., Raleigh, AD95001440

Nomination submitted by Federal Preservation Officer:

The State Historic Preservation Officer reviewed the following nomination and responded to the Federal Preservation Officer within 45 days of receipt of the nomination and supports listing the property in the National Register of Historic Places.

**NORTH DAKOTA****Cass County**

Federal Building and U.S. Post Office, 657  
2nd Ave. North, Fargo, SG100006635

(Authority: Section 60.13 of 36 CFR part 60)

Dated: May 4, 2021.

**Sherry A. Frear,**

*Chief, National Register of Historic Places/  
National Historic Landmarks Program.*

[FR Doc. 2021-09948 Filed 5-10-21; 8:45 am]

**BILLING CODE 4312-52-P**

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement**

[S1D1S SS08011000 SX064A000  
211S180110; S2D2S SS08011000  
SX064A000 21XS501520; OMB Control  
Number 1029-0119]

**Agency Information Collection Activities; Contractor Eligibility and the Abandoned Mine Land Contractor Information Form**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 12, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556-MIB, Washington, DC 20240, or by email to [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov). Please reference OMB Control Number 1029-0119 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Mark Gehlhar by email at [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov), or by telephone at 202-208-2716.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's

reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** 30 CFR 874.16 requires that every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Further, the regulation requires the eligibility to be confirmed by OSMRE's automated Applicant/Violator System (AVS) and the contractor must be eligible under the regulations implementing Section 510(c) of the Surface Mining Control and Reclamation Act to receive permits to conduct mining operations. This form provides a tool for OSMRE and the States/Indian tribes to help them prevent persons with outstanding violations from conducting further mining or AML reclamation activities in the State.

**Title of Collection:** Contractor Eligibility and the Abandoned Mine Land Contractor Information Form.

**OMB Control Number:** 1029-0119.

**Form Number:** AML Contractor Information Form (No form number).

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** State governments and businesses.

**Total Estimated Number of Annual Respondents:** 173.

**Total Estimated Number of Annual Responses:** 173.

**Estimated Completion Time per Response:** Varies from 30 minutes to 1 hour, depending on activity.

**Total Estimated Number of Annual Burden Hours:** 91.

**Respondent's Obligation:** Required to obtain or retain a benefit.

**Frequency of Collection:** One time.

**Total Estimated Annual Nonhour Burden Cost:** \$0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Mark J. Gehlhar,**

*Information Collection Clearance Officer,  
Division of Regulatory Support.*

[FR Doc. 2021-09921 Filed 5-10-21; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement**

[S1D1S SS08011000 SX064A000  
211S180110; S2D2S SS08011000  
SX064A000 21XS501520; OMB Control  
Number 1029-0025]

**Agency Information Collection Activities; Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 12, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556-MIB, Washington, DC 20240, or by email to [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov). Please reference OMB Control Number 1029-0025 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Mark Gehlhar by email at [mgehlhar@osmre.gov](mailto:mgehlhar@osmre.gov), or by telephone at 202–208–2716.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** The regulation allows any interested person to request the Director of OSMRE evaluate a state program by setting forth in the request a concise statement of facts that the person believes establishes the need for the evaluation

**Title of Collection:** Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs.

**OMB Control Number:** 1029–0025.

**Form Number:** None.

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** Individuals and organizations.

**Total Estimated Number of Annual Respondents:** 1.

**Total Estimated Number of Annual Responses:** 1.

**Estimated Completion Time per Response:** Varies from 20 hours to 100 hours, depending on activity.

**Total Estimated Number of Annual Burden Hours:** 50.

**Respondent's Obligation:** Required to obtain or retain a benefit.

**Frequency of Collection:** One time.

**Total Estimated Annual Nonhour Burden Cost:** \$0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Mark J. Gehlhar,**

*Information Collection Clearance Officer,  
Division of Regulatory Support.*

[FR Doc. 2021–09922 Filed 5–10–21; 8:45 am]

**BILLING CODE 4310–05–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–644 and 731–TA–1494 (Final)]

### Non-Refillable Steel Cylinders From China

#### Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that an industry in the United States is materially injured by reason of imports of non-refillable steel cylinders from China, provided for in subheadings 7310.29.00 and 7311.00.00 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”), and to be subsidized by the government of China.

#### Background

The Commission instituted these investigations effective March 27, 2020, following receipt of petitions filed with the Commission and Commerce by Worthington Industries, Columbus,

<sup>1</sup> The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Ohio. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of non-refillable steel cylinders from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 28, 2020 (85 FR 84367). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its hearing through written testimony and video conference on March 11, 2021. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on May 5, 2021. The views of the Commission are contained in USITC Publication 5188 (May 2021), entitled *Non-Refillable Steel Cylinders from China: Investigation Nos. 701–TA–644 and 731–TA–1494 (Final)*.

By order of the Commission.

Issued: May 5, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–09906 Filed 5–10–21; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—OPENJS Foundation

Notice is hereby given that, on April 21, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), OpenJS Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages

under specified circumstances. Specifically, Successive Technologies, Raleigh, NC, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on February 12, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2021 (86 FR 13752).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09905 Filed 5-10-21; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Recreational Off-Highway Vehicle Association

Notice is hereby given that, on March 26, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Recreational Off-Highway Vehicle Association (“ROHVA”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its nature and objective. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to the Act, the name and principal place of business of the standards development organization is: Recreational Off-Highway Vehicle Association, 2 Jenner, Suite 150, Irvine, CA 92618. The nature and scope of ROHVA’s standards development activities are: Maintenance to and revision of a voluntary standard (ANSI/ROHVA 1–2016) addressing design, configuration and performance aspects of Recreational Off-Highway Vehicles (ROVs).

Also, ROHVA is including its members, American Honda Motor Co., Inc. (Torrance, CA); BRP, Inc. (Valcourt, Quebec); Kawasaki Motors Corp., U.S.A. (Irvine, CA); Mahindra Vehicle Sales and Services, Inc. (Auburn Hills, MI); Polaris Inc. (Medina, MN); Textron Specialized Vehicles (Augusta, GA); and Yamaha Motor Corporation, U.S.A. (Cypress, CA), in this notice.

On June 23, 2008, ROHVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 29, 2008 (73 FR 43952).

The last notification was filed with the Department on December 5, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 17, 2014 (79 FR 3253).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09899 Filed 5-10-21; 8:45 am]

BILLING CODE 4410-11-P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Specialty Vehicle Institute of America

Notice is hereby given that, on March 26, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Specialty Vehicle Institute of America (“SVIA”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to the Act, the name and principal place of business of the standards development organization is: Specialty Vehicle Institute of America, 2 Jenner, Suite 150, Irvine, CA 92618. The nature and scope of SVIA’s standards development activities are: Maintenance to and revision of a voluntary standard (ANSI/SVIA 1–2017) addressing design, configuration and performance aspects of Four Wheel All-Terrain Vehicles (ATVs).

In addition, SVIA is including its members, American Honda Motor Co., Inc. (Torrance, CA); BRP, Inc. (Valcourt, Quebec); CFMOTO Powersports, Inc.

(Plymouth, MN), Kawasaki Motors Corp., U.S.A. (Irvine, CA); KYMCO USA, Inc. (Spartanburg, SC); Polaris Inc. (Medina, MN); Suzuki Motor USA, LLC (Brea, CA); Textron Specialized Vehicles (Augusta, GA); and Yamaha Motor Corporation, U.S.A. (Cypress, CA), in this notice.

On October 14, 2005, SVIA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 25, 2005 (70 FR 71172).

The last notification was filed with the Department on February 5, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act March 9, 2016 (81 FR 12524).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09897 Filed 5-10-21; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Z-Wave Alliance, Inc.

Notice is hereby given that, on April 21, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (the “Act”), Z-Wave Alliance, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Anhui Geniatech Inc., Ltd., Hefei, PEOPLE’S REPUBLIC OF CHINA; Hank Smart Tech Co. Ltd., Shenzhen, PEOPLE’S REPUBLIC OF CHINA; FireAvert, LLC, Springville, UT; MY CLIMA GREEN ENERGIE SRLS, Milano, ITALY; Sengled, Shanghai City, PEOPLE’S REPUBLIC OF CHINA; Black Watch Systems, LLC, Snyder, TX; Pamex Inc., Chino, CA; Telus Communications Inc., Edmonton, CANADA; Kaonbrand Broadband Co., Ltd., Gyeonggi-do, SOUTH KOREA; Somfy Systems, Inc., Dayton, NJ; Comfortability B.V., Ijssel, THE NETHERLANDS; i feel, Tikva, ISRAEL; Thermo-Floor AS, Hunndalen, NORWAY; Masonite Corporation, Tampa, FL; and U-tec Group Inc.,

Freemont, CA have joined as parties to this venture.

Also, Gullitech, Savigny-sur-Orge, FRANCE; Perenio IOT spol s.r.o., Ricany-Jazlovice, CZECH REPUBLIC; MERCURY Corporation, Incheon, SOUTH KOREA; FireAngel Safety Technology, Coventry, UNITED KINGDOM; Shenzhen Sunricher Technology Limited, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Fermax Asia Pacific Pte Ltd, Singapore, SINGAPORE; Switcher Limited, London, UNITED KINGDOM; Guangdong Daming Laffey Electric Co., Ltd., Guangdong, PEOPLE'S REPUBLIC OF CHINA; Connected Object, Paris, FRANCE; AVX Integrated Technologies, West Nyack, NY; Radio Thermostat Company of America, Modesto, CA; Keyless Entry Systems, New South Wales, AUSTRALIA; and SmartEzy Pte Ltd., Singapore, SINGAPORE have withdrawn from this venture.

No other changes have been made in the membership or the planned activity of this venture. Membership in this venture remains open, and Z-Wave Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 19, 2020, Z-Wave Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 1, 2020 (85 FR 77241).

The last notification was filed with the Department on February 3, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2021 (86 FR 13733).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09904 Filed 5-10-21; 8:45 am]

**BILLING CODE 4410-11-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Institute of Electrical and Electronics Engineers, Inc.

Notice is hereby given that, on April 5, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), The Institute of Electrical and Electronics Engineers, Inc. (“IEEE”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or

changes to its standards development activities. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 19 new standards have been initiated and 8 existing standards are being revised. More detail regarding these changes can be found at: <https://standards.ieee.org/about/sasb/sba/mar2021.html>.

The following pre-standards activities associated with IEEE Industry Connections Activities were launched or renewed: <https://standards.ieee.org/about/bog/smdca/march2021.html>.

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on February 24, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 8, 2021 (86 FR 18326).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09902 Filed 5-10-21; 8:45 am]

**BILLING CODE 4410-11-P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on April 9, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), National Armaments Consortium (“NAC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AI Strategy Corporation, Babylon, NY; Alpine Advanced Materials, Dallas, TX; Analytical Space, Inc., Cambridge, MA; Bangham Engineering Inc., Huntsville, AL; Boston Materials, Inc., Billerica, MA; Calspan Corporation, Buffalo, NY; Cambrian Works, Inc., Fairfax, VA; Concurrent Real-Time, Pompano Beach, FL; Consolidated Resource Imaging LLC (CRI), Grand Rapids, MI; Daniel

Defense, Inc., Black Creek, GA; Dynasafe US LLC, Talladega, AL; FLIR Unmanned Ground Systems, Inc., Chelmsford, MA; Innoflight, LLC, San Diego, CA; Knight Technical Solutions, LLC, Huntsville, AL; Loukus Technologies, Inc., Calumet, MI; Lyn Aerospace, LLC, Rockledge, FL; Materion Brush, Inc., Elmore, OH; MetalTek International Wisconsin Investcast Division, Watertown, WI; Michael R. Limotta & Co., Inc., DBA Proximai.com, Solvang, CA; Microsoft Corporation, Redmond, WA; Netwerx, LLC, Colts Neck, NJ; Optimum Parts Company Inc., Agawam, MA; PECO INC, Clackamas, OR; Photon Flux, LLC, Huntsville, AL; R3 Strategic Support Group, Inc., Coronado, CA; Ravyn Technology Corporation, El Segundo, CA; RE2, Inc., Pittsburgh, PA; Redpoint Engineering Inc., Beavercreek, OH; Rhein Tech Laboratories, Inc., Herndon, VA; Stratolaunch, LLC, Mojave, CA; Telesat U.S. Services, LLC, Arlington, VA; Terma North America Warner, Robins, GA; Tomahawk Robotics, Melbourne, FL; Trident Solutions Group, LLC, Monmouth Beach, NJ; Voxel Innovations Inc., Raleigh, NC; VTMB, LLC, Clearwater, FL; Wescam USA, Inc., Santa Rosa, CA; and York Space Systems LLC, Denver, CO, have been added as parties to this venture.

Also, Exact Solution Scientific Consulting, LLC, Morristown, NJ; Kennley Corporation, North Chesterfield, VA; Lithium Battery Engineering LLC, Randolph, NJ; McConnell Jones Lanier & Murphy LLP d.b.a. MJLM Engineering & Technical Services, Huntsville, AL; Military Battery Systems, Inc. Denver, CO; Polaris Contract Manufacturing, Inc, Marion, MA; QinetiQ North America, Waltham, MA; Rite-Solutions, Inc., Pawcatuck, CT; Stark Aerospace, Inc., Columbus, MS; University of Delaware, Newark, DE; and W R Systems, Ltd. (WR), Fairfax, VA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on January 12, 2021. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on January 19, 2021 (86 FR 5251).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09901 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on April 6, 2021, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), National Spectrum Consortium (“NSC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AirV Labs, Inc, Champaign, IL; Altagrove, LLC, Herndon, VA; Applied Technology, Inc., King George, VA; Artesion, Inc., Tacoma WA; Aurora Insight Inc., Denver, CO; B23 LLC, Tysons, VA; BTAS, Inc., Beaver Creek, OH; Cable Television Laboratories, Inc., Louisville, CO; Capgemini Government Solutions, LLC, McLean, VA; Capstone Partners, Inc., Lancaster, PA; CNF Technologies, San Antonio, TX; Echo Ridge, LLC., Sterling, VA; Encryptor, Inc., Plano, TX; Engineering & Computer Simulations, Inc., Orlando, FL; Envistacom, LLC., Atlanta, GA; Epirus, Inc., Hawthorne, CA; Exyn Technologies, Philadelphia, PA; General Radar Corporation, Belmont, CA; IFS North America, Inc., Chicago, IL; M3 Defense Consulting, LLC, Sterling Heights, MI; Metawave Corporation, Carlsbad, CA; Mobile Frontiers, LLC., Vienna, VA; NanoVMs, Inc., San Francisco, CA; Naval Systems, Inc., Lexington Park, MD; NeuComm Solutions, LLC, Aurora, CO; NineTwelve Institute, Indianapolis, IN; Noblis Inc., Reston, VA; Northeast UAS Airspace Integration Research Alliance, Inc.(NUAIR), Syracuse, MA; Opto-Knowledge Systems, Inc., Torrance, CA; Radiall USA, Inc, Tempe, AZ; Robotic Research, LLC, Clarksburg, MD; RVJ Institute, Inc., Milford, NH; Shield AI Inc., San Diego, CA; SIEGE Technologies, Chantilly, VA; SimX, Inc., Los Altos, CA; Swim.ai, Inc., Campbell,

CA; Teletronics Technology Corporation, Newtown, PA; UI Labs dba MxD USA, Chicago, IL; USCC Services, LLC, Chicago, IL; and Zin Solutions, Inc. DBA Axiom Towers, Tulsa, OK have been added as parties to this venture.

Also, GreenSight Agronomics, Inc., Boston, MA; MixComm, Inc., Chatham, NJ; NTS Technical Systems, Calabasas, CA; Ultra Communications, Inc., Vista, CA; Veritech, LLC, Glendale, AZ; MW Ventures LLC, DBA Social Mobile, Miami, FL; Paul Christoforou dba Lociva, Haymarket, VA; Rodriguez, Jonathan, La Habra, CA; James River Design & MFG LLC DBA Avcom of Virginia, North Chesterfield, VA; Garou Inc., New York, NY; CIPHER-TM, LLC, Albany, OR; Corner Alliance, Inc., Washington, DC; Erebus Solutions Inc., Rochester, NY; IAI, LLC, Chantilly, VA; InCadence Strategic Solutions, Manassas, VA; NetApp, Inc., Sunnyvale, CA; Peregrine Technical Solutions, LLC, Yorktown, VA; University of Washington, Seattle, WA; W5 Technologies, Inc., Scottsdale, AZ; AuresTech Inc., Tewksbury, MA; Electronic Design and Development Corp (ED2), Tucson, AZ; Fenix Group, Inc., Chantilly, VA; HawkEye 360, Inc., Herndon, VA; Mavenir Systems, Inc., Richardson, TX; MegaWave Corporation, Worcester, MA; NorthWest Research Associates, Inc., Redmond, WA; Pi Radio Inc., Brooklyn, NY; QuayChain, Inc., San Pedro, CA; Sentar, Inc., Huntsville, AL; and TrustComm, Inc., Stafford, VA have withdrawn from this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 24, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on January 15, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 12, 2021 (86 FR 9376).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2021-09898 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**Rosa A. Fuentes, M.D.; Decision and Order**

On March 1, 2021, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Rosa A. Fuentes, M.D. (hereinafter, Registrant) of San Antonio, Texas. OSC, at 1. The OSC proposed the revocation of Registrant’s Certificate of Registration No. FF5063172. It alleged that Registrant is without “authority to handle controlled substances in Texas, the state in which [Registrant is] registered with DEA.” *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that the Texas Medical Board issued an order of Temporary Suspension with Notice of Hearing on December 18, 2020. *Id.* This Order, according to the OSC, immediately suspended Registrant’s Texas state medical license following the Texas Medical Board’s finding that Registrant “prescribed controlled substances in violation of the restrictions that the Board had imposed on [Registrant’s] prescribing authority.” *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

#### Adequacy of Service

In a Declaration dated April 20, 2021, a Diversion Investigator (hereinafter, DI) assigned to the San Antonio District Office, Houston Field Division, stated that on March 5, 2021, she, another DI, and a DEA Task Force Officer traveled to Registrant’s last known residential address on her 2018-issued driver’s license. Request for Final Agency Action, dated April 20, 2021 (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 3 (DI’s Declaration), at 2. The DI stated that they met and spoke with Registrant’s mother who told them that Registrant was not there. *Id.* While at the same address, the DI then called Registrant at the contact number indicated on her DEA registration and spoke with Registrant, and asked if the DI could leave the OSC with her mother. *Id.*



Registrant confirmed that the DI could leave the OSC with her mother and said that she would come to the address later to retrieve it. *Id.* The DI stated that she then personally handed Registrant's mother a copy of the OSC and asked Registrant's mother to sign DEA Form 12, "Receipt for Cash or Other Items" (hereinafter, DEA 12) to indicate that she had received the OSC. *Id.* On March 10, 2021, the DI, along with another DI, visited Registrant's place of business. *Id.* The DI verified Registrant's identity at her place of business by observing Registrant's State of Texas driver's license. *Id.* at 2–3. The DI stated that she then personally handed Registrant an additional copy of the OSC and explained that the 30-day timeline to respond to the OSC began on March 5, 2021, the date when Registrant's mother had been served with the OSC. *Id.* at 3.

The Government forwarded its RFAA, along with the evidentiary record, to this office on April 20, 2021. In its RFAA, the Government represents that "[Registrant] has not submitted a timely request for a hearing in this matter."<sup>1</sup> RFAA, at 1. The Government requests that the Administrator revoke Registrant's DEA registration on the ground that Registrant is "presently not authorized to handle controlled substances in the State of Texas." *Id.* at 2 and 6.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on March 5, 2021. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent the Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

<sup>1</sup> The Government also represents that as of the date of the RFAA, "neither [Registrant] nor any attorney representing her has requested a hearing" and "[neither Registrant] nor any attorney for her [has] submitted a written statement." RFAA, at 2.

## Findings of Fact

### *Registrant's DEA Registration*

Registrant is the holder of DEA Certificate of Registration No. FF5063172 at the registered address of Texas Low T & Weight Loss Clinic PLLC, 7551 Callaghan Road, Suite 120, San Antonio, Texas 78229. RFAAX 1 (DEA Certificate of Registration). Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules IV and V as a practitioner. *Id.*

### *The Status of Registrant's State License*

On December 18, 2020, the Texas Medical Board (hereinafter, Board) issued an Order of Temporary Suspension with Notice of Hearing (hereinafter, Suspension Order). RFAAX 3, App. A (Suspension Order), at 1. According to the Suspension Order, Registrant has a "lengthy disciplinary history with the Board." *Id.* at 2.

On or around August 31, 2012, the Board publicly reprimanded Registrant through an Agreed Order (hereinafter, 2012 Order) and imposed certain terms and conditions on her medical license based on her "failure to adequately supervise mid-level practitioners, prescribing controlled substances without valid controlled substance registration certificates, and providing false information to the Board." *Id.* The 2012 Order also required that Registrant take and pass the JP Exam, complete eight hours of continuing medical education in risk management, complete sixteen hours of continuing medical education in supervision of mid-level providers, and pay an administrative penalty of \$5,000. *Id.* On or about June 12, 2015, the 2012 Order was terminated by the Board based on Registrant's representation that she "no longer employed mid-level practitioners and had no plans to employ mid-level practitioners in the future." *Id.*

On March 2, 2018, the Board entered a Final Order (2018 Final Order) that "prohibited [Registrant] from possessing, administering, dispensing, or prescribing Schedules II and III controlled substances with the sole exception of testosterone therapy and that only allowed her to prescribe Schedules IV and V controlled substances to patients for periods of less than 30 days with refills prohibited." *Id.* at 2–3. Registrant was also prohibited from issuing any refills for controlled substances for a minimum of five years, as well as prohibited from "delegating to or supervising the activities of mid-level practitioners." *Id.* at 3. The 2018 Final Order followed a contested case proceeding at the State Office of

Administrative Hearings. *Id.* at 2. The action was based on Registrant "being placed on deferred adjudication following a guilty plea for violating provisions of the Medical Practice Act." *Id.* at 3.

On December 6, 2019, the Board entered an Agreed Order on Formal Filing (2019 Order) after determining that Registrant was in violation of the prescribing restrictions in the 2018 Final Order. *Id.* The 2019 Order first required that Registrant "request modification of her DEA Controlled Substances Registration Certificates to eliminate Schedules II and III within seven days of entry of the [2019 Order]." *Id.* The 2019 Order also required that Registrant "could only prescribe controlled substances in accordance with the conditions set forth in the [2018 Final Order]" and that Registrant was "prohibited from re-registering with the DEA for Schedules II and III controlled substances without written authorization from the Board after a personal appearance." *Id.* Additionally, the 2019 Order prohibited Registrant from "possessing, administering, or prescribing controlled substances in Texas other than prescriptions written to her by a licensed provider for legitimate personal use" and required, effective February 1, 2020, that Registrant "limit her practice to a pre-approved group or institutional setting." *Id.* Further, the 2019 Order required that Registrant undergo eight consecutive cycles of chart monitoring and prohibited Registrant from supervising or delegating prescriptive authority to mid-level providers. *Id.* Finally, the 2019 Order required Registrant to "provide a copy of the [2019 Order] to all healthcare entities where privileged or practicing and to provide proof of such delivery within 30 days." *Id.*

According to the Suspension Order, Registrant violated multiple conditions set forth in the 2018 and 2019 orders. First, Registrant "failed to surrender her controlled substances registrations with the DEA to eliminate Schedules II and III by the December 13, 2019 deadline in the 2019 Order. In fact, [Registrant] did not surrender these registrations until on or around October 20, 2020." *Id.* Additionally, Registrant "prescribed controlled substances in violation of the 2018 and 2019 [orders], as evidenced by controlled substance refills that were written between March 16, 2019 and March 16, 2020 in violation of . . . the 2018 Order." *Id.* Furthermore, although Registrant was prohibited, effective February 1, 2020, from practicing medicine in any setting other than a pre-approved group or institutional setting, Registrant failed to request approval for

a group/institutional setting by the February 1, 2020 deadline and “instead, [Registrant] has continued to practice medicine at Texas Low T clinic in violation of . . . the 2019 Order to date.” *Id.* The Suspension Order went on to list how Registrant had also “failed to initiate chart monitoring in violation of . . . the 2019 Order” as well as “failed to cooperate with Board Staff by failing to timely respond to communications from her Compliance Officer, by failing to return compliance-related documentation including but not limited to evidence that she has surrendered her Schedule II and III controlled substances registrations, by failing to file quarterly compliance reports, and by misrepresenting the nature and scope of her current practice setting.” *Id.*

The Suspension Order concluded that Registrant “has engaged in unprofessional conduct by violating the terms and conditions set forth in the 2018 [Final] Order and the 2019 Order.” *Id.* at 5. The Suspension Order stated that despite the “significant restrictions and requirements imposed on [Registrant’s] medical practice as the result of two separate Board orders, [Registrant’s] practice has continued almost unchanged since March 2018” and that “[Registrant’s] willingness to defy the Board through repeated, flagrant, and ongoing violations of previous Board Orders intended to restrict her practice and protect the public—including one order that [Registrant] explicitly agreed to—demonstrates that her continuation in the practice of medicine poses a continuing threat to public health and welfare.” *Id.* Based on its findings and conclusions, the Board ordered that Registrant’s medical license be temporarily suspended “effective on the date rendered” until superseded by a subsequent Board order. *Id.* at 6.

According to Texas’s online records, of which I take official notice, Registrant’s license is still suspended.<sup>2</sup>

<sup>2</sup> Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at [dea.addo.attorneys@dea.usdoj.gov](mailto:dea.addo.attorneys@dea.usdoj.gov).

Texas Medical Board, <https://www.tmb.state.tx.us/page/look-up-a-license> (last visited date of signature of this Order). Texas’s online records show that Registrant’s medical license remains suspended and that Registrant is not authorized in Texas to practice medicine. *Id.*

Accordingly, I find that Registrant is not currently licensed to engage in the practice of medicine in Texas, the State in which Registrant is registered with the DEA.

#### Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR at 71,371–72;

*Sheran Arden Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR at 27,617.

Under the Texas Controlled Substances Act, a practitioner in Texas “may not prescribe, dispense, deliver, or administer a controlled substance or cause a controlled substance to be administered under the practitioner’s direction and supervision except for a valid medical purpose and in the course of medical practice.” Tex. Health and Safety Code Ann. § 481.071 (West 2019). The Texas Controlled Substances Act defines “practitioner,” in relevant part, as “a physician . . . licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.” *Id.* at § 481.002 (39)(A). Further, under the Texas Medical Practice Act, a person must hold a license to practice medicine in Texas, Tex. Occupations Code Ann. § 155.001 (West 2019) (“A person may not practice medicine in this state unless the person holds a license issued under [the Medical Practice Act.]”); *see also id.* at § 151.002 (“‘Physician’ means a person licensed to practice medicine in this state.”), and “[a] person commits an offense if the person practices medicine in [Texas] in violation of” the Act, *id.* at § 165.152(a).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Texas. I, therefore, find that Registrant is currently without authority to dispense controlled substances in Texas, the state in which she is registered with DEA. Accordingly, I will order that Registrant’s DEA registration be revoked.

#### Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FF5063172 issued to Rosa A. Fuentes, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Rosa A. Fuentes, M.D. to renew or modify this registration, as well as any other pending application of Rosa A. Fuentes, M.D., for additional registration in Texas. This Order is effective June 10, 2021.

**D. Christopher Evans,**  
*Acting Administrator.*

[FR Doc. 2021–09907 Filed 5–10–21; 8:45 am]

**BILLING CODE 4410–09–P**

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration**

[Docket No. OSHA–2006–0042]

**CSA Group Testing & Certification Inc.: Grant of Expansion of Recognition****AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Notice.

**SUMMARY:** In this notice, OSHA announces the final decision to expand the scope of recognition for CSA Group Testing & Certification Inc. for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL).

**DATES:** The expansion of the scope of recognition becomes effective on May 11, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Information regarding this notice is available from the following sources:

*Press inquiries:* Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999 or email [meilinger.francis2@dol.gov](mailto:meilinger.francis2@dol.gov).

*General and technical information:* Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110 or email [robinson.kevin@dol.gov](mailto:robinson.kevin@dol.gov).

**SUPPLEMENTARY INFORMATION:****I. Notice of Final Decision**

OSHA hereby gives notice of the expansion of the scope of recognition of CSA Group Testing & Certification Inc. (CSA) as a NRTL. CSA's expansion covers the addition of four test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in

Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

CSA submitted an application, dated July 17, 2019 (OSHA–2006–0042–0018), to expand their recognition to include four additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing CSA's expansion application in the **Federal Register** on February 23, 2021 (86 FR 11004). The agency requested comments by March 10, 2021, but it received no comments in response to this notice. OSHA is now proceeding with this final notice to grant expansion of CSA's scope of recognition.

To obtain or review copies of all public documents pertaining to the CSA's application, go to <http://www.regulations.gov> or contact the Docket Office, Occupational Safety and Health Administration, Docket No. OSHA–2006–0042 contains all materials in the record concerning CSA's recognition. *Please note:* Due to the COVID–19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693–2350.

**II. Final Decision and Order**

OSHA staff examined CSA's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that CSA meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant CSA's scope of recognition. OSHA limits the expansion of CSA's recognition to testing and certification of products for demonstration of conformance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 2271	Standard for Batteries for Use in Light Electric Vehicle (LEV) Applications.
UL 9540	Standard for Energy Storage Systems and Equipment.
UL 2054	Standard for Household and Commercial Batteries.
UL 1973	Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail (LER) Applications.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

**A. Conditions**

In addition to those conditions already required by 29 CFR 1910.7, CSA must abide by the following conditions of the recognition:

1. CSA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. CSA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. CSA must continue to meet the requirements for recognition, including all previously published conditions on CSA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of CSA as a NRTL, subject to the limitations and conditions specified above.

### III. Authority and Signature

James S. Frederick, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on April 8, 2021.

**James S. Frederick,**

*Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2021–09950 Filed 5–10–21; 8:45 am]

BILLING CODE 4510–26–P

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## OFFICE OF MANAGEMENT AND BUDGET

### Senior Executive Service Performance Review Board Membership

**AGENCY:** Office of Management and Budget.

**ACTION:** Notice.

**SUMMARY:** The Office of Management and Budget (OMB) publishes the names of the members selected to serve on its Senior Executive Service (SES) Performance Review Board (PRB). This notice supersedes all previous notices of the PRB membership.

**DATES:** *Applicable:* May 1, 2021

**FOR FURTHER INFORMATION CONTACT:**

Sarah Whittle Spooner, Assistant Director for Management and Operations, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, 202–395–7402.

**SUPPLEMENTARY INFORMATION:** Section 4314(c) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more PRBs. The PRB shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any response by the senior executive, and make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on OMB's PRB.

Nicole Budzinski, Chief of Staff

David C. Connolly, Chief,  
Transportation and Services Branch,  
General Government Programs  
Alexander T. Hunt, Chief, Information  
Policy Branch, Office of Information  
and Regulatory Affairs  
Adrienne E. Lucas, Deputy Associate  
Director for Natural Resources  
David J. Rowe, Deputy Assistant  
Director for Budget  
Sarah Whittle Spooner, Assistant  
Director for Management and  
Operations

**Sarah Whittle Spooner,**

*Assistant Director for Management and Operations.*

[FR Doc. 2021–09896 Filed 5–10–21; 8:45 am]

BILLING CODE 3110–01–P

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–21–0006; NARA–2021–024]

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

**DATES:** NARA must receive comments by June 25, 2021.

**ADDRESSES:** You may submit comments by the following method. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

Due to COVID–19 building closures, we are currently temporarily not accepting comments by mail. However, if you are unable to comment via *regulations.gov*, you may contact [request.schedule@nara.gov](mailto:request.schedule@nara.gov) for instructions on submitting your comment.

**FOR FURTHER INFORMATION CONTACT:**

Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at [regulation\\_comments@nara.gov](mailto:regulation_comments@nara.gov)

*nara.gov*. For information about records schedules, contact Records Management Operations by email at [request.schedule@nara.gov](mailto:request.schedule@nara.gov), by mail at the address above, or by phone at 301–837–1799.

**SUPPLEMENTARY INFORMATION:**

**Public Comment Procedures**

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as “other” documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact [request.schedule@nara.gov](mailto:request.schedule@nara.gov) for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a “Consolidated Reply” summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a

comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at <https://www.archives.gov/records-mgmt/rcs>, after the Archivist approves them. The RCS contains all schedules approved since 1973.

## Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

## Schedules Pending

1. Department of Health and Human Services, Office of the Assistant Secretary for Health, Office of Research Integrity Records (DAA-0514-2020-0001).

2. Department of Justice, Federal Bureau of Investigation, IntelPlus Analytical Database (DAA-0065-2020-0001).

3. Department of State, Bureau of Counterterrorism and Countering Violent Extremism, Consolidated Schedule (DAA-0059-2019-0003).

4. Department of the Treasury, Internal Revenue Service, Affordable Care Act (ACA) Hospital Review Cases (DAA-0058-2021-0001).

5. Department of the Treasury, Internal Revenue Service, Affordable Care Act (ACA) Insurance Provider Fee Records (DAA-0058-2021-0002).

6. Federal Communications Commission, Agency-Wide, Connected Care Pilot and Covid-19 Telehealth Program Records (DAA-0173-2020-0006).

**Laurence Brewer,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2021-09892 Filed 5-10-21; 8:45 am]

**BILLING CODE 7515-01-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021-87 and CP2021-90]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* May 13, 2021.

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

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

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

#### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

#### II. Docketed Proceeding(s)

1. Docket No(s): MC2021-87 and CP2021-90; Filing Title: USPS Request to Add Priority Mail Contract 697 to Competitive Product List and Notice of Filing Materials Under Seal; Filing Acceptance Date: May 5, 2021; Filing Authority: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; Public Representative: Kenneth R. Moeller; Comments Due: May 13, 2021.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021-09931 Filed 5-10-21; 8:45 am]

**BILLING CODE 7710-FW-P**

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

**POSTAL SERVICE**

**Transfer of Post Office Box Service in Selected Locations to the Competitive Product List**

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service hereby provides notice that Post Office Box™ service for approximately 237 locations will be reassigned from their market-dominant fee groups to competitive fee groups.

**DATES:** Comments must be received on or before June 10, 2021.

**ADDRESSES:** Mail or deliver written comments to: Sheila Marano, Manager Product Management, Special Services, 475 L'Enfant Plaza SW, Room 2P836, Washington, DC 20260. Emailed and faxed comments will not be accepted. You may inspect and photocopy all written comments, by appointment only, at the USPS Headquarter Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m. to 4 p.m., by calling (202)268-2904. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

**FOR FURTHER INFORMATION CONTACT:** Valerie Pelton, 202-487-4341.

**SUPPLEMENTARY INFORMATION:** Locations providing Post Office Box service are classified as competitive or market dominant and assigned to fee groups based upon proximity to private sector competitors and other criteria. Competitive locations provide more services than market dominant ones and

have somewhat higher fees. In May 2011, the Postal Service filed a request with the Postal Regulatory Commission (PRC) to transfer approximately 6,800 PO Box locations from market-dominant to competitive fee groups, based on a showing that sufficient competition exists when a private sector alternative exists within five miles or less. PRC Docket No. MC2011-25. Documents pertinent to that proceeding are available at [www.prc.gov](http://www.prc.gov), Docket No. MC2011-25. At that time, the Postal Service advised the PRC that a **Federal Register** notice would be filed whenever the Postal Service subsequently updates the list of competitive locations by applying the criteria approved in that docket. Since the original filing, the Postal Service updated the list of competitive locations in 2013 to add an additional location, *see* 79 FR 60928-60929 (Oct. 2, 2013), and subsequently updated it again to add 1625 locations effective Aug. 27, 2014, *see* 79 FR 38972-38998 (July 9, 2014). Competitive Post Office Box service includes several enhancements such as: Electronic notification of the receipt of mail, use of an alternate street address format, signature on file for delivery of certain accountable mail, and additional hours of access and/or earlier availability of mail in some locations. Recently, the Postal Service re-applied the Docket No. MC2011-25 criteria to its PO Box locations and determined that an additional 237 locations (out of a total of approximately 32,788 locations) would properly be classified as competitive, based on their proximity to a private sector competitor within five miles. The Postal Service confirms that the 237 locations being reclassified meet all of the criteria that the Commission considered in Docket No. MC2011-25.

The Postal Service used WebBATS and geospatial data to identify and confirm that each post office location is within five miles of a private sector competitor. The Postal Service excluded locations with less than 250 boxes due to the “small customer base” and locations with access constraints. Communications are being sent to the identified Postmasters of the locations; and PO Box customers in the identified 237 Post Office locations will receive an email and/or letter notifying them that their PO Boxes are now competitive locations and will include the additional services. Additional internal and external communications are planned as well. A list of affected locations, with the associated ZIP Codes, is provided in the Appendix to this notice.

**Joshua Hofer,**  
*Attorney, Ethics & Legal Compliance.*

**Appendix**

**Transfer of Additional Post Office Box Locations to Competitive Fee Group—ZIP Code Listing**

The following is a list of the locations which are described in the Notice above as qualifying for reassignment from market dominant to competitive fee groups. The list is sorted by ZIP Code in ascending numerical order with geographical breaks and headers. As indicated by the column headings, this list provides the ZIP Code of the affected PO Boxes (ZIP), the office name of the location (OFFICE NAME), the city where the PO Boxes are located (CITY), the current market dominant fee group (CFG), and the new competitive fee group (NFG). Please note that there are more ZIP Codes than locations being moved to competitive fee groups, because some locations serve more than one ZIP Code. These locations can be identified whenever multiple ZIP Codes are listed for a single office name.

ZIP	Facilities name	City	St	CFG	NFG
<b>ALABAMA</b>					
35011 .....	ALEXANDER CITY .....	ALEXANDER CITY .....	AL	4	34
35044 .....	CHILDERSBURG .....	CHILDERSBURG .....	AL	4	34
35453 .....	COTTONDALE .....	COTTONDALE .....	AL	5	35
35068 .....	FULTONDALE .....	FULTONDALE .....	AL	5	35
35071 .....	GARDENDALE .....	GARDENDALE .....	AL	5	35
35094 .....	LEEDS .....	LEEDS .....	AL	4	34
36303 .....	NORTHSIDE .....	DOTHAN .....	AL	4	34
35179 .....	VINEMONT .....	VINEMONT .....	AL	5	35
<b>ARKANSAS</b>					
72501 .....	BATESVILLE .....	BATESVILLE .....	AR	5	35
72543 .....	HEBER SPRINGS .....	HEBER SPRINGS .....	AR	5	35
<b>ARIZONA</b>					
85321 .....	AJO .....	AJO .....	AZ	3	33
86323 .....	CHINO VALLEY .....	CHINO VALLEY .....	AZ	5	35
85028 .....	CPU KARENS HALLMARK CACTUS .....	PHOENIX .....	AZ	5	35

ZIP	Facilities name	City	St	CFG	NFG
85356	WELLTON	WELLTON	AZ	4	34
<b>CALIFORNIA</b>					
95225	BURSON	BURSON	CA	4	34
93210	COALINGA	COALINGA	CA	5	35
95426	COBB	COBB	CA	5	35
92242	EARP	EARP	CA	3	33
92548	HOMELAND	HOMELAND	CA	4	34
92251	IMPERIAL	IMPERIAL	CA	3	33
95454	LAYTONVILLE	LAYTONVILLE	CA	5	35
94305	STANFORD	STANFORD	CA	3	33
92277	TWENTYNINE PALMS	TWENTYNINE PALMS	CA	2	32
96093	WEAVERVILLE	WEAVERVILLE	CA	5	35
<b>COLORADO</b>					
80102	BENNETT	BENNETT	CO	6	36
81211	BUENA VISTA	BUENA VISTA	CO	4	34
80701	FORT MORGAN	FORT MORGAN	CO	4	34
<b>CONNECTICUT</b>					
06268	STORRS MANSFIELD	STORRS MANSFIELD	CT	3	33
<b>FLORIDA</b>					
32615	ALACHUA	ALACHUA	FL	4	34
34420	BELLEVIEW	BELLEVIEW	FL	5	35
33043	BIG PINE KEY	BIG PINE KEY	FL	5	35
32131	EAST PALATKA	EAST PALATKA	FL	4	34
32439	FREEPORT	FREEPORT	FL	3	33
32040	GLEN SAINT MARY	GLEN SAINT MARY	FL	5	35
34736	GROVELAND	GROVELAND	FL	4	34
32063	MACCLENNEY	MACCLENNEY	FL	3	33
34753	MASCOTTE	MASCOTTE	FL	7	37
34762	OKAHUMPKA	OKAHUMPKA	FL	7	37
32177	PALATKA	PALATKA	FL	4	34
34219	PARRISH	PARRISH	FL	4	34
33946	PLACIDA	PLACIDA	FL	5	35
33570	RUSKIN	RUSKIN	FL	4	34
33957	SANIBEL	SANIBEL	FL	5	35
32959	SHARPES	SHARPES	FL	5	35
33873	WAUCHULA	WAUCHULA	FL	5	35
32362	WOODVILLE	WOODVILLE	FL	4	34
33890	ZOLFO SPRINGS	ZOLFO SPRINGS	FL	5	35
<b>GEORGIA</b>					
30553	LAVONIA	LAVONIA	GA	4	34
31757	TALL TIMBERS VLG	THOMASVILLE	GA	4	34
30474	VIDALIA	VIDALIA	GA	4	34
30680	WINDER	WINDER	GA	4	34
<b>GUAM</b>					
96929	ANDERSEN AFB	YIGO	GU	1	31
96913	BARRIGADA	BARRIGADA	GU	1	31
96928	CPU DEDEDO	DEDEDO	GU	2	32
96912A	CPU DEDEDO	DEDEDO	GU	2	32
96929	CPU YIGO	YIGO	GU	1	31
96910	HAGATNA	HAGATNA	GU	1	31
<b>HAWAII</b>					
96719	HAWI	HAWI	HI	3	33
<b>IOWA</b>					
50125	INDIANOLA	INDIANOLA	IA	5	35
52501	OTTUMWA	OTTUMWA	IA	5	35
<b>IDAHO</b>					
83853	PORTHILL	PORTHILL	ID	5	35

ZIP	Facilities name	City	St	CFG	NFG
83467	SALMON	SALMON	ID	3	33
<b>ILLINOIS</b>					
60115	DEKALB	DEKALB	IL	5	35
61801	DOWNTOWN URBANA	URBANA	IL	3	33
60099	ZION	ZION	IL	4	34
<b>INDIANA</b>					
46312	EAST CHICAGO	EAST CHICAGO	IN	4	34
46140	GREENFIELD	GREENFIELD	IN	3	33
46320	HAMMOND	HAMMOND	IN	2	32
<b>KANSAS</b>					
67601	HAYS	HAYS	KS	4	34
66618	NORTHPARK	TOPEKA	KS	4	34
<b>KENTUCKY</b>					
42330	CENTRAL CITY	CENTRAL CITY	KY	4	34
41635	HAROLD	HAROLD	KY	5	35
42431	MADISONVILLE	MADISONVILLE	KY	4	34
40165	SHEPHERDSVILLE	SHEPHERDSVILLE	KY	7	37
<b>LOUISIANA</b>					
71405	BALL	BALL	LA	5	35
70427	BOGALUSA	BOGALUSA	LA	4	34
70043	CHALMETTE	CHALMETTE	LA	6	36
70359	GRAY	GRAY	LA	5	35
71360	PINEVILLE	PINEVILLE	LA	3	33
70663	SULPHUR	SULPHUR	LA	4	34
71477	TIOGA	TIOGA	LA	5	35
<b>MARYLAND</b>					
20613	BRANDYWINE	BRANDYWINE	MD	4	34
20755	FORT GEORGE G MEADE	FORT GEORGE G MEADE	MD	3	33
<b>MAINE</b>					
04619	CALAIS	CALAIS	ME	2	32
04543	DAMARISCOTTA	DAMARISCOTTA	ME	4	34
04043	KENNEBUNK	KENNEBUNK	ME	1	31
04046	KENNEBUNKPORT	KENNEBUNKPORT	ME	4	34
04758	MARS HILL	MARS HILL	ME	3	33
04553	NEWCASTLE	NEWCASTLE	ME	4	34
04094	WEST KENNEBUNK	WEST KENNEBUNK	ME	4	34
<b>MICHIGAN</b>					
49401	ALLENDALE	ALLENDALE	MI	5	35
48111	BELLEVILLE	BELLEVILLE	MI	5	35
49306	BELMONT	BELMONT	MI	5	35
<b>MINNESOTA</b>					
56537	FERGUS FALLS	FERGUS FALLS	MN	4	34
56001	MANKATO	MANKATO	MN	3	33
<b>MISSOURI</b>					
63841	DEXTER	DEXTER	MO	5	35
64083	RAYMORE	RAYMORE	MO	3	33
63117	RICHMOND HEIGHTS	SAINT LOUIS	MO	2	32
63080	SULLIVAN	SULLIVAN	MO	3	33
<b>MISSISSIPPI</b>					
39342	MARION	MARION	MS	6	36
39305	NORTH MERIDIAN	MERIDIAN	MS	4	34
39307	WEST MERIDIAN	MERIDIAN	MS	4	34



ZIP	Facilities name	City	St	CFG	NFG
<b>MONTANA</b>					
59917	EUREKA	EUREKA	MT	4	34
59752	THREE FORKS	THREE FORKS	MT	4	34
<b>NORTH CAROLINA</b>					
28725	DILLSBORO	DILLSBORO	NC	5	35
27244	ELON	ELON	NC	5	35
28307	FORT BRAGG	FORT BRAGG	NC	2	32
28741	HIGHLANDS	HIGHLANDS	NC	5	35
28348	HOPE MILLS	HOPE MILLS	NC	2	32
27021	KING	KING	NC	5	35
28645	LENOIR	LENOIR	NC	3	33
27557	MIDDLESEX	MIDDLESEX	NC	5	35
27030	MOUNT AIRY	MOUNT AIRY	NC	3	33
28372	PEMBROKE	PEMBROKE	NC	5	35
27045	RURAL HALL	RURAL HALL	NC	5	35
28779	SYLVA	SYLVA	NC	3	33
27049	TOAST	TOAST	NC	5	35
28788	WEBSTER	WEBSTER	NC	5	35
<b>NORTH DAKOTA</b>					
58784	STANLEY	STANLEY	ND	5	35
<b>NEBRASKA</b>					
69341	GERING	GERING	NE	4	34
69361	SCOTTSBLUFF	SCOTTSBLUFF	NE	4	34
<b>NEW HAMPSHIRE</b>					
03253	MEREDITH	MEREDITH	NH	5	35
<b>NEW JERSEY</b>					
07001	AVENEL	AVENEL	NJ	1	31
08002	ELLISBURG	CHERRY HILL	NJ	3	33
07630	EMERSON	EMERSON	NJ	1	31
<b>NEW MEXICO</b>					
87301	CPU T AND R MARKET	GALLUP	NM	4	34
87015	EDGEWOOD	EDGEWOOD	NM	5	35
88047	MESILLA PARK	MESILLA PARK	NM	4	34
<b>NEVADA</b>					
89883	WEST WENDOVER	WEST WENDOVER	NV	5	35
89445	WINNEMUCCA	WINNEMUCCA	NV	3	33
<b>NEW YORK</b>					
13502	BUTTERFIELD	UTICA	NY	4	34
12919	CHAMPLAIN	CHAMPLAIN	NY	5	35
12920	CHATEAUGAY	CHATEAUGAY	NY	5	35
13640	FINEVIEW	WELLESLEY ISLAND	NY	4	34
13602	FORT DRUM	FORT DRUM	NY	3	33
13655	HOGANSBURG	HOGANSBURG	NY	5	35
14843	HORNELL	HORNELL	NY	3	33
14845	HORSEHEADS	HORSEHEADS	NY	3	33
13501	KERNAN	UTICA	NY	4	34
13403	MARCY	MARCY	NY	5	35
13662	MASSENA	MASSENA	NY	4	34
13413	NEW HARTFORD	NEW HARTFORD	NY	3	33
13440	ROME	ROME	NY	4	34
13683	ROOSEVELT TOWN	ROOSEVELT TOWN	NY	5	35
13504	UTICA	UTICA	NY	4	34
<b>OHIO</b>					
43062	PATASKALA	PATASKALA	OH	4	34
44907	SOUTHWEST	MANSFIELD	OH	4	34
44281	WADSWORTH	WADSWORTH	OH	3	33

ZIP	Facilities name	City	St	CFG	NFG
<b>OKLAHOMA</b>					
74429	COWETA	COWETA	OK	3	33
73533	DUNCAN	DUNCAN	OK	4	34
74554	KREBS	KREBS	OK	5	35
74501	MCALESTER	MCALESTER	OK	4	34
73801	WOODWARD	WOODWARD	OK	4	34
<b>OREGON</b>					
97325	AUMSVILLE	AUMSVILLE	OR	5	35
97814	BAKER CITY	BAKER CITY	OR	3	33
97523	CAVE JUNCTION	CAVE JUNCTION	OR	4	34
97351	INDEPENDENCE	INDEPENDENCE	OR	3	33
97361	MONMOUTH	MONMOUTH	OR	3	33
97381	SILVERTON	SILVERTON	OR	4	34
97385	SUBLIMITY	SUBLIMITY	OR	4	34
<b>PENNSYLVANIA</b>					
19023	DARBY	DARBY	PA	3	33
19348	KENNETT SQUARE	KENNETT SQUARE	PA	3	33
17044	LEWISTOWN	LEWISTOWN	PA	4	34
17850	MONTANDON	MONTANDON	PA	5	35
18015	SOUTHSIDE	BETHLEHEM	PA	3	33
19372	THORNDALE	THORNDALE	PA	3	33
18657	TUNKHANNOCK	TUNKHANNOCK	PA	3	33
19375	UNIONVILLE	UNIONVILLE	PA	5	35
<b>PUERTO RICO</b>					
00965	CPU AMELIA CONTRACT	GUAYNABO	PR	3	33
00907	CPU CONDADO CONTRACT STA	SAN JUAN	PR	2	32
00685	CPU HATO ARRIBA CONTRACT	SAN SEBASTIAN	PR	2	32
00979	CPU ISLA VERDE CONTRACT	CAROLINA	PR	2	32
00936	SAN JUAN	SAN JUAN	PR	2	32
00976	TRUJILLO ALTO	TRUJILLO ALTO	PR	2	32
<b>RHODE ISLAND</b>					
02882	NARRAGANSETT	NARRAGANSETT	RI	2	32
<b>SOUTH CAROLINA</b>					
29822	CLEARWATER	CLEARWATER	SC	5	35
29569	LORIS	LORIS	SC	3	33
<b>SOUTH DAKOTA</b>					
57532	FORT PIERRE	FORT PIERRE	SD	6	36
57501	PIERRE	PIERRE	SD	5	35
57069	VERMILLION	VERMILLION	SD	4	34
57078	YANKTON	YANKTON	SD	4	34
<b>TENNESSEE</b>					
37643	ELIZABETHTON	ELIZABETHTON	TN	3	33
37062	FAIRVIEW	FAIRVIEW	TN	5	35
37743	GREENEVILLE	GREENEVILLE	TN	3	33
<b>TEXAS</b>					
75751	ATHENS	ATHENS	TX	3	33
75551	ATLANTA	ATLANTA	TX	5	35
78133	CANYON LAKE	CANYON LAKE	TX	5	35
78834	CARRIZO SPRINGS	CARRIZO SPRINGS	TX	7	37
78234	FORT SAM HOUSTON	JBSA FT SAM HOUSTON	TX	5	35
78358	FULTON	FULTON	TX	6	36
78026	JOURDANTON	JOURDANTON	TX	4	34
75142	KAUFMAN	KAUFMAN	TX	3	33
79331	LAMESA	LAMESA	TX	5	35
78642	LIBERTY HILL	LIBERTY HILL	TX	7	37
77864	MADISONVILLE	MADISONVILLE	TX	4	34
77357	NEW CANEY	NEW CANEY	TX	6	36
77630	ORANGE	ORANGE	TX	5	35

ZIP	Facilities name	City	St	CFG	NFG
77446	PRAIRIE VIEW	PRAIRIE VIEW	TX	7	37
75572	QUEEN CITY	QUEEN CITY	TX	6	36
77510	SANTA FE	SANTA FE	TX	7	37
79556	SWEETWATER	SWEETWATER	TX	5	35
76692	WHITNEY	WHITNEY	TX	7	37
75169	WILLS POINT	WILLS POINT	TX	4	34
<b>UTAH</b>					
84651	PAYSON	PAYSON	UT	4	34
<b>VIRGINIA</b>					
20143	CATHARPIN	CATHARPIN	VA	5	35
24504	COURTHOUSE LYNCHBURG	LYNCHBURG	VA	3	33
23801	FORT LEE	FORT LEE	VA	3	33
22630	FRONT ROYAL	FRONT ROYAL	VA	3	33
24572	MADISON HEIGHTS	MADISON HEIGHTS	VA	5	35
<b>VIRGIN ISLANDS</b>					
00802	CHARLOTTE AMALIE	ST THOMAS	VI	2	32
00830	CRUZ BAY	ST JOHN	VI	5	35
00802	EMANCIPATION GARDENS	ST THOMAS	VI	2	32
00802	VETERANS ANNEX	ST THOMAS	VI	3	33
<b>VERMONT</b>					
05440	ALBURGH	ALBURGH	VT	4	34
05033	BRADFORD	BRADFORD	VT	4	34
05830	DERBY LINE	DERBY LINE	VT	5	35
05855	NEWPORT	NEWPORT	VT	3	33
05478	SAINT ALBANS	SAINT ALBANS	VT	3	33
05676	WATERBURY	WATERBURY	VT	2	32
05777	WEST RUTLAND	WEST RUTLAND	VT	4	34
<b>WASHINGTON</b>					
99109	CHEWELAH	CHEWELAH	WA	5	35
98501	CPU SAFEWAY 7	TUMWATER	WA	2	32
99006	DEER PARK	DEER PARK	WA	5	35
98257	LA CONNER	LA CONNER	WA	5	35
98045	NORTH BEND	NORTH BEND	WA	4	34
98844	OROVILLE	OROVILLE	WA	5	35
98394	VAUGHN	VAUGHN	WA	3	33
<b>WISCONSIN</b>					
53029	HARTLAND	HARTLAND	WI	4	34
54476	SCHOFIELD	SCHOFIELD	WI	3	33
54880	SUPERIOR	SUPERIOR	WI	4	34
<b>WEST VIRGINIA</b>					
26330	BRIDGEPORT	BRIDGEPORT	WV	4	34
25625	HOLDEN	HOLDEN	WV	5	35
24901	LEWISBURG	LEWISBURG	WV	4	34
25560	SCOTT DEPOT	SCOTT DEPOT	WV	5	35
25652	WHITMAN	WHITMAN	WV	5	35
<b>WYOMING</b>					
82716	GILLETTE	GILLETTE	WY	5	35
82072	LARAMIE	LARAMIE	WY	5	35

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BILLING CODE 7710-12-P

**POSTAL SERVICE****Privacy Act System of Records****AGENCY:** Postal Service™.**ACTION:** Notice of a new system of records.**SUMMARY:** The United States Postal Service (USPS™) is proposing to create a new General Privacy Act System of Records.**DATES:** These revisions will become effective without further notice on June

10, 2021, unless comments received on or before that date result in a contrary determination.

**ADDRESSES:** Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters ([privacy@usps.gov](mailto:privacy@usps.gov)). Arrangements to view copies of any written comments received, to facilitate public inspection, will be made upon request.

**FOR FURTHER INFORMATION CONTACT:** Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–3069 or [privacy@usps.gov](mailto:privacy@usps.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The world of commercial information technology resources (“IT”) is constantly changing and innovating to improve the daily lives of businesses, their employees, and their customers. This pace can often result in unanticipated obsolescence, necessitating review of an organization’s already implemented solutions. For the Postal Service, legal processes and notice required by the Privacy Act present additional challenges, as new technologies will require further review for possible compliance issues to meet statutory and regulatory requirements.

To better meet the changing technology world, the Postal Service will consolidate existing Systems of Records (“SOR”s) covering IT into three new, comprehensive Systems of Records. These SORs will work in tandem, with each individual SOR covering a specific group of related functions, and all three SORs working together to support a seamless technology experience.

These SORs, generally, will cover the following three areas:

- Infrastructure, covering records created for use throughout the entirety of a particular IT resource in addition to covering the records created from the usage of those records by users and applications.
- Applications, covering records created through the regular use of an application.
- Administrative, covering records created for monitoring and administration of users and applications within an IT resource.

In addition to covering these three areas generally, the Postal Service will look ahead in an effort to include possible future technology solutions within this System of Records. This will give the Postal Service flexibility to more easily adapt to the advancing pace of information technology and to better

fulfill its service obligations. This will also provide transparency into the collection of records relating to commercial IT, allowing Postal employees, contractors, and the public to more easily identify what we do with their information.

**Rationale for the Creation of a New USPS System of Records**

Currently, records relating to the implementation of IT resources are housed primarily in USPS 500.000, Property Management Records, with other IT-related components appearing in 890.000, Sales, Marketing, Events, and Publications, and other SORs. SOR 500.000 reflects not only IT access records, but also building access and related records. This results in a mixture of uses within SOR 500.000, which reduces optimization and can result in confusion.

The creation of a new SOR to encompass commercial IT resources, therefore, provides a platform which is easy to understand and allows for greater flexibility in use and maintenance. Since the new SOR will house only IT resources, the public can more easily understand what information is collected and how it is used.

Further, documenting IT records within one SOR provides for greater flexibility in adding new resources as well as maintaining existing resources. For example, one application may already collect and store, for the same purpose, data elements that a new application will use. With a record already documented, the implementation process of the new technology will be streamlined while also meeting statutory and regulatory mandates.

**Description of New or Modified System of Records**

This new System of Records is being developed to support the implementation of various commercial IT resources and to provide support for future implementations.

This system specifically will cover categories of records referred to collectively as “Applications.” Categories of Records in this system reference data elements created through normal use and interactions in a software application. Applications covered in this SOR reference or incorporate data elements otherwise documented in USPS 550.000 Commercial Information Technology Resources- Infrastructure; therefore, they will not be specifically documented here unless this system

references a transformative use of that element.

This System of Records may overlap with elements appearing in other Systems of Records, as indicated in the Rationale for Changes to USPS System of Records section. This new System of Records will encompass commercially developed or commercially assisted IT resources. Applications developed in-house or by the Postal Service, such as Informed Delivery®, will still be represented in their own SOR.

**SYSTEM NAME AND NUMBER:**

550.100 Commercial Information Technology Resources—Applications.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

All USPS facilities and contractor sites.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief Information Officer and Executive Vice President, United States Postal Service, 475 L’Enfant Plaza SW, Washington, DC 20260.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

39 U.S.C. 401, 403, and 404.

**PURPOSE(S) OF THE SYSTEM:**

1. To provide event registration services to USPS customers, contractors, and other third parties.
2. To allow task allocation and tracking among team members.
3. To allow users to communicate by telephone, instant-messaging, and email through local machine and web-based applications on desktop and mobile operating systems.
4. To share your personal image via your device camera during meetings and web conferences, if you voluntarily choose to turn the camera on, enabling virtual face-to-face conversations.
5. To provide for the creation and storage of media files, including video recordings, audio recordings, desktop recording, and web-based meeting recordings.
6. To provide a collaborative platform for viewing video and audio recordings.
7. To create limited use applications using standard database formats.
8. To review distance driven by approved individuals for accurate logging and compensation.
9. To develop, maintain, and share computer code.
10. To comply with Security Executive Agent Directive (SEAD) 3 requirements for self-reporting of unofficial foreign travel pertaining to covered individuals who have access to classified information or who hold a sensitive position.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

1. Individuals with authorized access to USPS computers, information resources, and facilities, including employees, contractors, business partners, suppliers, and third parties.

2. Individuals participating in web-based meetings, web-based video conferencing, web-based communication applications, and web-based collaboration applications.

**CATEGORIES OF RECORDS IN THE SYSTEM:****1. Third-party Information records:**

Records relating to non-Postal, third-party individuals utilizing an information system, application, or piece of software, including: Third-Party Name, Third Party Date Request, Third Party Free Text, Guest User Information.

**2. Collaboration and Communication records:** Records relating to web-conferencing, web-collaboration, and web-communication applications, including: Email Body Text, Email Metadata, Poll Responses, Survey Responses, Message Reactions, Group Names, Group IDs, Action Name, Number Of Actions Sent, Number Of Action Responses, Employee Phone Number, Group Chat History, Profile Information, Group Membership, Contacts, Enterprise Social Network User Name, Enterprise Social Network User State, Enterprise Social Network User State Change Date, Enterprise Social Network User Last Activity Date, Number Of Messages Posted By An Enterprise Social Network User In Specified Time Period, Number Of Messages Viewed By An Enterprise Social Network User, Number Of Liked Messages By An Enterprise Social Network User, Products Assigned To An Enterprise Social Network User, Home Network Information, External Network Information, External Network Name, External Network Description, External Network Image, Network Creation Date, Network Usage Policy, External Network User Name, External Network User Email Address, External Group Name, Number Of Users On A Network, Network ID, Live Event Video Links, Files Added Or Modified In Enterprise Social Network, Message ID, Thread ID, Message Privacy Status, Full Body Of Message, Project Owner, Project Creator, Event Start Time, Event Status, Event Organizer, Event Presenter, Event Producer, Event Production Type, Event Recording Setting, Total Number Of Event Media Viewings, Number Of Active Users, Number Of Active Users In Groups, Number Of Active Group Communication Channels, Number Of Messages Sent, Number Of Calls Participated In, Last Activity Date Of A

User, Number Of Guest Users In A Group, Event Name, Event Description, Event Start Date, Event End Date, Video Platform Group Name, Video Platform Group Email Alias, Video Platform Group Description, Video Platform Group Classification, Video Platform Group Access Level, Video Platform Channel Name, Video Platform Channel Description, Video Platform Channel Access, Video Platform Live Event Recording.

**3. Multimedia records:** Records relating to media associated with or originating from an information system, including: Video Platform User ID, Video Name, Videos Uploaded By User, Videos Accessed By User, Channels Created By User, User Group Membership, Comments Left By User On Videos, Screen Recordings, Video Transcript, Deep Search Captions, Video Metadata, Audio Metadata, Phone Number, Time Phone Call Started, User Name, Call Type, Phone Number Called To, Phone Number Called From, Called To Location, Called From Location, Telephone Minutes Used, Telephone Minutes Available, Charges For Use Of Telephone Services, Currency Of Charged Telephone Services, Call Duration, Call ID, Conference ID, Phone Number Type, Blocked Phone Numbers, Blocking Action, Reason For Blocking Action, Blocked Phone Number Display Name, Date And Time Of Blocking, Call Start Time, User Display Name, SIP Address, Caller Number, Called To Number, Call Type, Call Invite Time, Call Failure Time, Call End Time, Call Duration, Number Type, Media Bypass, SBC FQDN, Data Center Media Path, Data Center Signaling Path, Event Type, Final SIP, Final Vendor Subcode, Final SIP Phrase, Unique Customer Support ID.

**4. Limited Use Application records:** Records relating to applications with a specific, limited use, including: Application Authoring Application Name, Application Authoring Application Author, Voice Search Text Strings, Miles Driven, Mileage Rates, Country Currency, Destination, Destination Classification, Car Make, Car Model, Working Hours, Total Number Of Monthly Drives, Total Number Of Monthly Miles, Total Number Of Personal Drives, Total Number Of Personal Drives.

**5. Development Records:** Records relating to applications used for the creation, sharing, or modification of software code, including: Data Repository User ID, Data Repository Password, Data Repository User Address, Data Repository Payment Information, Data Repository User First Name, Data Repository User Last Name,

Data Repository Profile Picture, Data Repository Profile Biography, Data Repository Profile Location, Data Repository User Company, Data Repository User Preferences, Data Repository User Preference Analytics, Data Repository Transaction Date, Data Repository Transaction Time, Data Repository Transaction Amount Charged, Data Repository web pages Viewed, Data Repository Referring website, Data Repository Date Of web page Request, Data Repository Time Of web page Request, Data Repository User Commits, Data Repository User Commit Comment Body Text, Data Repository Pull Request Comment Body Text, Data Repository Issue Comment Body Text, Data Repository User Comment Body Text, Data Repository User Authentication, Language Of Device Accessing Data Repository, Operating System Of Device Accessing Data Repository, Application Version Of Device Accessing Data Repository, Device Type Of Device Accessing Data Repository, Device ID Of Device Accessing Data Repository, Device Model Of Device Accessing Data Repository, Device Manufacturer Of Device Accessing Data Repository, Browser Version Of Device Accessing Data Repository, Client Application Information Of Device Accessing Data Repository, Data Repository User Usage Information, Data Repository Transactional Information, Data Repository API Notification Status, Data Repository API Issue Status, Data Repository API Pull Status, Data Repository API Commit Status, Data Repository API Review Status, Data Repository API Label, Data Repository API User Account Signin Status, Data Repository API Schedule Status, Data Repository API Schedule List.

**6. Unofficial Foreign Travel**

**Monitoring:** Records relating to covered individuals for the administration of the SEAD 3 program, including: Title, Name Of Traveler, Information Type: Pre-Travel And Post-Travel, Start Date Of Travel, End Date Of Travel, Carrier Of Transportation, Countries You Are Visiting, Passport Number, Passport Expiration Date, Names And Association Of Foreign National Travel Companions, Planned Foreign Contacts, Emergency Contact Name, Emergency Contact Phone Number, Emergency Contact Relationship, Post-Travel Questions Relating To Activity, Events, And Interactions.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Standard routine uses 1. through 9. apply. In addition:

(a) Disclosure of records to appropriate agencies, entities, and persons when (1) the Postal Service suspects or has confirmed that there has been a breach of the system of records; (2) the Postal Service has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Postal Service (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Postal Service's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

**RECORD SOURCE CATEGORIES:**

Employees; contractors; suppliers; customers.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Automated database, computer storage media, and paper.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

1. Records relating to third-parties are retrievable by name and email address.
2. Records relating to communication and collaboration are retrievable by name, email address, and user ID.
3. Records pertaining to multimedia are retrievable by user name and media title.
4. Records relating to application development are retrievable by user ID and application name.
5. Records relating to Unofficial Foreign Travel Monitoring for covered individuals are retrievable by name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

1. Records relating to third-parties are retained for twenty-four months.
2. Records relating to communication and collaboration are retained for twenty-four months.
3. Multimedia recordings are retained for twenty-four months.
4. Records relating to application development are retained for twenty-four months.
5. Records relating to Unofficial Foreign Travel Monitoring for covered individuals are retained for twenty-five years.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Computer access is limited to

authorized personnel with a current security clearance, and physical access is limited to authorized personnel who must be identified with a badge.

Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by encryption, mechanical locks, card key systems, or other physical access control methods. The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

**RECORD ACCESS PROCEDURES:**

Requests for access must be made in accordance with the Notification Procedure above and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

**CONTESTING RECORD PROCEDURES:**

See Notification Procedure and Record Access Procedures above.

**NOTIFICATION PROCEDURE:**

Customers wanting to know if other information about them is maintained in this system of records must address inquiries in writing to the Chief Information Officer and Executive Vice President and include their name and address.

**EXEMPTION(S) PROMULGATED FROM THIS SYSTEM:**

None.

**HISTORY:**

None.

**Joshua J. Hofer,**

*Attorney, Ethics & Legal Compliance.*

[FR Doc. 2021-09754 Filed 5-10-21; 8:45 am]

**BILLING CODE**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-91778; File No. SR-NYSE-2021-29]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Temporary Period for Specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and Temporary Rule Relief in Rule 36.30**

May 5, 2021.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on April 26, 2021, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to extend the temporary period for specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and temporary rule relief in Rule 36.30, to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on August 31, 2021. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to extend the temporary period for specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and temporary rule relief to Rule 36.30, to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on August 31, 2021. The current temporary period that these Rules are in effect ends on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on April 30, 2021.

Background

To slow the spread of COVID-19 through social-distancing measures, on March 18, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that, beginning March 23, 2020, the Trading Floor facilities located at 11 Wall Street in New York City would close and the Exchange would move, on a temporary basis, to fully electronic trading.<sup>4</sup> On May 14, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) to reopen the Trading Floor on a limited basis on May 26, 2020 to a subset of Floor brokers, subject to safety measures designed to prevent the spread of COVID-19.<sup>5</sup> On June 15, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) to begin the second phase of the Trading Floor reopening by allowing DMMs to return on June 17, 2020, subject to safety measures designed to prevent the spread of COVID-19.<sup>6</sup> Consistent with these safety measures, both DMMs and Floor broker firms continue to operate with reduced staff on the Trading Floor.

Proposed Rule Change

The Exchange has modified its rules to add Commentaries to Rules 7.35,

7.35A, 7.35B, and 7.35C and rule relief in Rule 36.30<sup>7</sup> that are in effect until the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on April 30, 2021.<sup>8</sup>

The first and second phases of the reopening of the Trading Floor are

<sup>7</sup> See Securities Exchange Act Release Nos. 88413 (March 18, 2020), 85 FR 16713 (March 24, 2020) (SR-NYSE-2020-19) (amending Rule 7.35C to add Commentary .01); 88444 (March 20, 2020), 85 FR 17141 (March 26, 2020) (SR-NYSE-2020-22) (amending Rules 7.35A to add Commentary .01, 7.35B to add Commentary .01, and 7.35C to add Commentary .02); 88488 (March 26, 2020), 85 FR 18286 (April 1, 2020) (SR-NYSE-2020-23) (amending Rule 7.35A to add Commentary .02); 88546 (April 2, 2020), 85 FR 19782 (April 8, 2020) (SR-NYSE-2020-28) (amending Rule 7.35A to add Commentary .03); 88562 (April 3, 2020), 85 FR 20002 (April 9, 2020) (SR-NYSE-2020-29) (amending Rule 7.35C to add Commentary .03); 88705 (April 21, 2020), 85 FR 23413 (April 27, 2020) (SR-NYSE-2020-35) (amending Rule 7.35A to add Commentary .04); 88725 (April 22, 2020), 85 FR 23583 (April 28, 2020) (SR-NYSE-2020-37) (amending Rule 7.35 to add Commentary .01); 88950 (May 26, 2020), 85 FR 33252 (June 1, 2020) (SR-NYSE-2020-48) (amending Rule 7.35A to add Commentary .05); 89059 (June 12, 2020), 85 FR 36911 (June 18, 2020) (SR-NYSE-2020-50) (amending Rule 7.35C to add Commentary .04); 89086 (June 17, 2020), 85 FR 37712 (SR-NYSE-2020-52) (amending Rules 7.35A to add Commentary .06, 7.35B to add Commentary .03, 76 to add Supplementary Material 20, and Supplementary Material .30 to Rule 36); 89925 (September 18, 2020) (SR-NYSE-2020-75) (amending Rule 7.35 to add Commentary .02); and 90810 (December 29, 2020), 86 FR 335 (January 5, 2021) (SR-NYSE-2020-109) (amending Rule 7.35A to add Commentary .07).

<sup>8</sup> See Securities Exchange Act Release No. 90795 (December 23, 2020), 85 FR 86608 (December 30, 2020) (SR-NYSE-2020-106) (Notice of filing and immediate effectiveness of proposed rule change to extend the temporary period for specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and temporary rule relief in Rule 36.30 to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on April 30, 2021). See also Securities Exchange Act Release Nos. 90005 (September 25, 2020), 85 FR 61999 (October 2020) (SR-NYSE-2020-78) (Notice of filing and immediate effectiveness of proposed rule change to extend the temporary period for specified Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and temporary rule relief in Rule 36.30 to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on December 31, 2020); 89425 (July 30, 2020), 85 FR 47446 (August 5, 2020) (SR-NYSE-2020-63) (Notice of filing and immediate effectiveness of proposed rule change to extend the temporary period for Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and temporary rule relief in Rule 36.30 to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on September 30, 2020); 89199 (June 30, 2020), 85 FR 40718 (July 7, 2020) (SR-NYSE-2020-56) (Notice of filing and immediate effectiveness of proposed rule change to extend the temporary period for Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C; Supplementary Material .20 to Rule 76; and temporary rule relief in Rule 36.30 to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on July 31, 2020); and 89368 (July 21, 2020), 85 FR 45272 (July 27, 2020) (SR-NYSE-2020-61) (Notice of filing and immediate effectiveness of proposed rule change to lift the temporary suspension to Rule 76 and delete Supplementary Material .20 to Rule 76).

subject to safety measures designed to prevent the spread of COVID-19. To meet these safety measures, Floor brokers and DMM units that have chosen to return to the Trading Floor are operating with reduced staff. The Exchange is therefore proposing to extend the following temporary rules until such time that there is a full reopening of the Trading Floor facilities to DMMs:

- Commentaries .01 and .02 to Rule 7.35;<sup>9</sup>
  - Commentaries .01, .02, .03, .04, .05, .06, and .07 to Rule 7.35A;
  - Commentaries .01 and .03 to Rule 7.35B;
  - Commentaries .01, .02, .03, and .04 to Rule 7.35C; and
  - Amendments to Rule 36.30.
- The Exchange is not proposing any substantive changes to these Rules.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>11</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

To reduce the spread of COVID-19, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that beginning March 23, 2020, the Trading Floor facilities located at 11 Wall Street in New York City would close and the Exchange would move, on a temporary basis, to fully electronic trading. On May 14, 2020, the CEO made a determination under Rule 7.1(c)(3) that, beginning May 26, 2020, the Trading Floor would be partially reopened to allow a subset of Floor brokers to return to the Trading Floor. On June 15, 2020, the CEO made a determination under Rule 7.1(c)(3) that, beginning June 17,

<sup>9</sup> Because DMMs are not obligated to return to a Floor, an IPO Auction may still be conducted by a DMM remotely as provided for in Commentary .04 to Rule 7.35A. If a DMM chooses to conduct an IPO Auction remotely, Floor brokers on the Trading Floor will not have access to IPO Auction imbalance information. The Exchange proposed a non-substantive change to Commentary .02 to Rule 7.35 to change the start date of that Commentary from September 20, 2020 to September 4, 2020, which is consistent with the date represented in the proposed rule change adopting that Commentary. See Securities Exchange Act Release No. 89925 (September 18, 2020) (SR-NYSE-2020-75) (amending Rule 7.35 to add Commentary .02).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>4</sup> Pursuant to Rule 7.1(e), the CEO notified the Board of Directors of the Exchange of this determination. The Exchange's current rules establish how the Exchange will function fully-electronically. The CEO also closed the NYSE American Options Trading Floor, which is located at the same 11 Wall Street facilities, and the NYSE Arca Options Trading Floor, which is located in San Francisco, CA. See Press Release, dated March 18, 2020, available here: <https://ir.theice.com/press-press-releases/all-categories/2020/03-18-2020-204202110>.

<sup>5</sup> See Securities Exchange Act Release No. 88933 (May 22, 2020), 85 FR 32059 (May 28, 2020) (SR-NYSE-2020-47) (Notice of filing and immediate effectiveness of proposed rule change).

<sup>6</sup> See Securities Exchange Act Release No. 89086 (June 17, 2020) (SR-NYSE-2020-52) (Notice of filing and immediate effectiveness of proposed rule change).

2020, DMM units may choose to return a subset of staff to the Trading Floor.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because the Trading Floor has not yet reopened in full to DMMs or Floor brokers. Accordingly, the Exchange believes that the temporary rule changes in effect pursuant to the Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and amendments to Rule 36.30, which are intended to be in effect during the temporary period while the Trading Floor has not yet opened in full to DMMs, should be extended until such time that there is a full reopening of the Trading Floor facilities to DMMs. The Exchange is not proposing any substantive changes to these Rules.

The Exchange believes that, by clearly stating that this relief will be in effect through the earlier of a full reopening of the Trading Floor facilities to DMMs or the close of the Exchange on August 31, 2021, market participants will have advance notice of the temporary period during which the Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C and amendments to Rule 36.30 will be in effect.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather would extend the period during which Commentaries .01 and .02 to Rule 7.35; Commentaries .01, .02, .03, .04, .05, .06, and .07 to Rule 7.35A; Commentaries .01 and .03 to Rule 7.35B; Commentaries .01, .02, .03, and .04 to Rule 7.35C; and amendments to Rule 36.30 will be in effect. These Commentaries are intended to be in effect during the temporary period while the Trading Floor has not yet been opened in full to DMMs and Floor brokers and currently expire on April 30, 2021. Because the Trading Floor has not been opened in full to DMMs, the Exchange proposes to extend the temporary period for these temporary rules to end on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on August 31, 2021.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may take effect immediately. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the rules discussed above to remain in effect during the temporary period during which the Trading Floor has not yet been reopened in full to DMMs because of health precautions related to the Covid-19 pandemic. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>18</sup>

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

<sup>17</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>18</sup> For purposes only of accelerating the operative date of this proposal, the Commission has

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>19</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2021-29 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NYSE-2021-29. 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

considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>19</sup> 15 U.S.C. 78s(b)(2)(B).



10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2021-29 and should be submitted on or before June 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-09886 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91779; File No. SR-NYSEAMER-2021-05]

### Self-Regulatory Organizations; NYSE American, LLC.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 970NY and Rule 970.1NY To Eliminate the Use of Dark Series on the Exchange

May 5, 2021.

#### I. Introduction

On January 26, 2021, NYSE American, LLC (“NYSE American” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend Rule 970NY (“Firm Quotes”) and Rule 970.1NY (“Quote Mitigation”) to eliminate the use of “dark” series on the Exchange. The proposed rule change was published for comment in the *Federal Register* on February 8, 2021.<sup>3</sup> On March 18, 2021, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> 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 approve or disapprove the proposed rule change.<sup>5</sup> On April 27,

2021, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>6</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

Currently, NYSE American Rule 970NY (“Firm Quotes”) requires the Exchange to collect, process, and make available to quotation vendors the best bid and best offer for each option series that is a reported security unless the series is subject to an approved quote mitigation plan.<sup>7</sup> Pursuant to the quote mitigation plan set forth in NYSE American Rule 970.1NY, the Exchange only disseminates quotes in “active” series.<sup>8</sup> A series is considered active if the series: (i) Has traded on any options exchange in the previous 14 calendar days; (ii) is solely listed on the Exchange; (iii) has been trading ten days or less; or (iv) is a series in which the Exchange has an order.<sup>9</sup> In addition, a series may be considered active on an intraday basis if: (i) The series trades at any options exchange; (ii) the Exchange receives an order in the series; or (iii) the Exchange receives a request for

designated May 9, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

<sup>6</sup> In Amendment No. 1, the Exchange provided data that showed that during the eighteen (18) trading days between March 1, 2021 and March 24, 2021, quotes in dark series accounted for 2.43% of NYSE Arca, Inc. (“NYSE Arca”) quotes and 1.99% of NYSE American quotes, and quotes in dark series averaged 0.174% on NYSE Arca and 0.190% on NYSE American when compared to the total OPRA disseminated quotes during the same period. The Exchange also stated that on March 4, 2021 and March 5, 2021, OPRA processed the most messages in its history and provided data that shows that on March 4th, quotes in dark series from NYSE Arca and NYSE American combined for 0.5095% compared to OPRA message traffic. On March 5th, quotes in dark series from NYSE Arca and NYSE American combined for 0.2562% when compared to OPRA quote volume. The Exchange concluded that eliminating the suppression of quotes in dark series would result in a *de minimis* increase in quotes sent by NYSE Arca and NYSE American to OPRA and have essentially no impact on messaging at an industry level. Because Amendment No. 1 to the proposed rule change does not materially alter the substance of the proposed rule change, Amendment No. 1 is not subject to notice and comment. Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-nyseamer-2021-05/smyseamer202105-8730999-237044.pdf>.

<sup>7</sup> See NYSE American Rule 970NY(b)(1).

<sup>8</sup> The quote mitigation plan set forth in NYSE American Rule 970.1NY was adopted in conformance with NYSE Arca’s similar quote mitigation rule, which was adopted in connection with the Penny Pilot Program, a program which was subsequently approved on a permanent basis in 2020. See Notice, *supra* note 3, at 8659.

<sup>9</sup> See NYSE American Rule 970.1NY.

quote from a customer in that series.<sup>10</sup> Any options series that does not meet the definition of an active series is deemed to be an inactive or “dark” series. Consequently, under the Exchange’s current rules, although the Exchange accepts quotes from ATP Holders in all series, the only quote messages the Exchange disseminates to the Options Price Reporting Authority (“OPRA”) are quotes for active series.<sup>11</sup> The Exchange proposes to delete NYSE American Rule 970.1NY. Therefore, the proposed rule change would eliminate the distinction between active and dark series, and thus require quotes in all series to be disseminated to OPRA.<sup>12</sup>

#### III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>13</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires that the rules of an exchange be designed, among other things, 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 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.

In support of its proposal, the Exchange states the proposed rule change would increase transparency, enhance price discovery, and alleviate potential confusion among market participants regarding what quotes are being published in the disseminated quote feed and what quotes are being suppressed.<sup>15</sup> According to the

<sup>10</sup> See NYSE American Rule 970.1NY.

<sup>11</sup> See Notice, *supra* note 3, at 8659. See also Amendment No. 1, *supra* note 6 (providing data to support the Exchange’s conclusion that eliminating the suppression of quotes in dark series would result in a *de minimis* increase in quotes sent by NYSE Arca and NYSE American to OPRA and would have essentially no impact on messaging at an industry level).

<sup>12</sup> See Notice, *supra* note 3, at 8659.

<sup>13</sup> In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See Notice, *supra* note 3, at 8660 (stating that “over the years, certain market participants have

Continued

<sup>20</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 91039 (February 2, 2021), 86 FR 8659 (“Notice”).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 91355, 86 FR 15733 (March 24, 2021). The Commission

Exchange, discontinuing the use of the quote mitigation plan set forth in NYSE American 970.1NY would result in all Market Maker quotes (including those currently being suppressed because they are considered inactive) being displayed and reflected in the market, benefitting market participants by providing notice of such liquidity and removing the element of potential confusion.<sup>16</sup>

Further, the Exchange states the proposed rule change would not change the amount of capacity needed at OPRA to accommodate the inclusion of quotes in dark series because the Exchange already includes such quotes in the Exchange's current capacity planning requests to OPRA.<sup>17</sup> According to the Exchange, the proposal would not impact market participants or downstream users that consume Exchange or OPRA data because the quote capacity information OPRA currently publishes already reflects quotes in dark series because they are part of the Exchange's current capacity request.<sup>18</sup> Thus, according to the Exchange, market participants (including data vendors and subscribers) currently have the opportunity to prepare for and make necessary accommodations for anticipated quote traffic (including quotes in dark series).<sup>19</sup> Further, the Exchange anticipates that the proposed increase in quote message traffic due to the dissemination of quotes in inactive series is likely to be minimal and therefore unlikely to impact the flow of message traffic and/or harm downstream consumers of OPRA data.<sup>20</sup> In support of this assertion, the Exchange states that on the two trading days that OPRA processed the most messages in its history (March 4, 2021 and March 5, 2021), quotes in dark series from NYSE Arca and NYSE American combined were only 0.5095% and 0.2562%, respectively, compared to OPRA message traffic.<sup>21</sup> Finally, the Exchange states its additional existing

expressed confusion regarding what quotes are being published and which are being suppressed").

<sup>16</sup> See Notice, *supra* note 3, at 8660.

<sup>17</sup> See Notice, *supra* note 3, at 8660. The Exchange represents that it has always factored the total quote traffic it receives from Market Makers, including quotes in dark series, when making its capacity requests to OPRA. Specifically, the Exchange "presumes that all series will be active and therefore requests capacity to accommodate sending quotes in all series to OPRA." *Id.*

<sup>18</sup> See Notice, *supra* note 3, at 8660.

<sup>19</sup> See *id.*

<sup>20</sup> See *id.* at 8661. See also Amendment No. 1, *supra* note 6.

<sup>21</sup> See Amendment No. 1, *supra* note 6.

quote mitigation strategies are sufficient to continue to mitigate quote traffic.<sup>22</sup>

The Commission believes that eliminating the exclusion of inactive or dark series from the requirements of NYSE American Rule 970NY should increase transparency and may enhance opportunities for price discovery. Publishing all quotes (not just those in active series) in the disseminated quote feed may benefit market participants because it will provide notice of additional liquidity. Further, because the Exchange currently includes Market Maker quotes in inactive series in its capacity planning request to OPRA<sup>23</sup> and because publication of dark quotes from both the Exchange and NYSE Arca combined would result in a percentage increase in OPRA disseminated quotes that is *de minimis* according to the Exchange's data,<sup>24</sup> the Commission believes that dissemination of these quotes as part of the Exchange's quote feed to OPRA is not likely to negatively impact systems capacity. In addition, the Exchange has existing additional quote mitigation strategies that also serve to reduce the potential for excessive quoting.<sup>25</sup>

Accordingly, for the reasons set forth above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act<sup>26</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>27</sup> that the proposed rule change (SR-NYSEAMER-2021-05), as modified by Amendment No. 1, hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-09887 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>22</sup> See Notice, *supra* note 3, at 8660 (discussing three quote mitigation strategies the exchange currently employs to reduce the potential for excessive quoting and to reduce quote traffic).

<sup>23</sup> See *id.* at 8660.

<sup>24</sup> See Amendment No. 1, *supra* note 6. In addition, the Exchange states that there is sufficient capacity at OPRA to accommodate any additional quote traffic that will result from the elimination of dark series. See Notice, *supra* note 3, at 8660. The Exchange further notes that it does not believe its proposal will impact any other exchange's capacity at OPRA. See *id.* at 8660 n.8.

<sup>25</sup> See Notice, *supra* note 3, at 8660.

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91777; File No. SR-PEARL-2021-19]

### Self-Regulatory Organizations; MIAx PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404 To Limit Short Term Options Series Intervals Between Strikes

May 5, 2021.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 22, 2021, MIAx PEARL, LLC ("MIAx Pearl") or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAx Pearl's principal office, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend Rule 404, Series of Option Contracts Open for Trading. Specifically, this

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

proposal seeks to limit the intervals between strikes for multiply listed equity options classes within the Short Term Options Series program that have an expiration date more than twenty-one days from the listing date.

#### Background

Today, Exchange Rule 404 permits the Exchange, after a particular class of options (call option contracts or put option contracts relating to a specific underlying stock, Exchange-Traded Fund Share,<sup>3</sup> or ETNs) has been approved for listing and trading on the Exchange, to open for trading series of options therein. The Exchange may list series of options for trading on a weekly,<sup>4</sup> monthly,<sup>5</sup> or quarterly<sup>6</sup> basis. Exchange Rule 404(d) sets forth the intervals between strike prices of series of options on individual stocks.<sup>7</sup> In addition to those intervals, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>8</sup> the \$0.50 Strike Program,<sup>9</sup> and the \$2.50 Strike Program.<sup>10</sup>

The Exchange's proposal seeks to amend the listing of weekly series of options as proposed within Policy .02(f) of Exchange Rule 404, by limiting the intervals between strikes in multiply listed equity options, excluding Exchange-Traded Fund Shares and ETNs, that have an expiration date more than twenty-one days from the listing date. This proposal does not amend monthly or quarterly listing rules nor does it amend the \$1 Strike Price Interval Program, the \$0.50 Strike

Program, or the \$2.50 Strike Price Program.

#### Short Term Options Series Program

Today, Policy .02 of Exchange Rule 404 permits the Exchange to open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on an option class that expires at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire ("Short Term Option Expiration Dates"), provided an option class has been approved for listing and trading on the Exchange.<sup>11</sup> Today, the Exchange may open up to thirty initial series for each option class that participates in the Short Term Options Series Program.<sup>12</sup> Further, if the Exchange opens less than thirty (30) Short Term Option Series for a Short Term Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened.<sup>13</sup>

The Exchange may open for trading Short Term Option Series on the Short Term Option Opening Date that expire on the Short Term Option Expiration Date. The strike price interval for Short Term Option Series may be \$0.50 or greater for option classes that trade in \$1

strike price intervals and are in the Short Term Option Series Program. If the class does not trade in \$1 strike price intervals, the strike price interval for Short Term Option Series may be \$0.50 or greater where the strike price is less than \$100 and \$1.00 or greater where the strike price is between \$100 and \$150, and \$2.50 or greater for strike prices greater than \$150.<sup>14</sup> A non-Short Term Option series that is included in a class that has been selected to participate in the Short Term Option Series Program is referred to as a "Related non-Short Term Option." Notwithstanding any other provision regarding strike prices in Exchange Rule 404, Related non-Short Term Option series shall be opened during the month prior to expiration in the same manner as permitted in Exchange Rule 404, Interpretations and Policies .02, and in the same strike price intervals for the Short Term Option Series.<sup>15</sup>

The Exchange may select up to fifty (50) currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the 50 option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each option class eligible for participation in the Short Term Option Series Program, the Exchange may open up to thirty (30) Short Term Option Series for each expiration date in that class.<sup>16</sup>

The Exchange notes that listings in the weekly program comprise a significant part of the standard listing in options markets and that over the five years the industry has observed a notable increase in the compound annual growth rate ("CAGR") of weekly strikes as compared to CAGR for standard third-Friday expirations.<sup>17</sup>

#### Proposal

The Exchange proposes to limit the intervals between strikes in options listed as part of the Short Term Option Series Program that have an expiration date more than twenty-one days from the listing date, by adopting proposed Policy .11 to Exchange Rule 404, as well as paragraph (f) of Policy .02 to Exchange Rule 404, with respect to listing Short Term Option Series in equity options, (excluding Exchange-Traded Fund Shares and ETNs)

<sup>14</sup> See Policy .02(e) of Exchange Rule 404.

<sup>15</sup> See Policy .02(e) of Exchange Rule 404.

<sup>16</sup> See Policy .02(a) of Exchange Rule 404.

<sup>17</sup> See Securities Exchange Act Release No. 91125 (February 12, 2021), 86 FR 10375 (February 19, 2021) (SR-BX-2020-032).

<sup>3</sup> Securities deemed appropriate for options trading shall include share or other securities ("Exchange-Traded Fund Shares") that are traded on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS. See Exchange Rule 402(i).

<sup>4</sup> The weekly listing program is known as the Short Term Options Series Program and is described in Policy .02 of Exchange Rule 404.

<sup>5</sup> Except as other provided in Exchange Rule 404 and Interpretations and Policies hereto, at the commencement of trading on the Exchange of a particular type of option of a class of options, the Exchange shall open a minimum of one expiration month and series for each class of options open for trading on the Exchange. See Exchange Rule 404(b).

<sup>6</sup> The quarterly listing program is known as the Quarterly Options Series Program and is described in Policy .03 of Exchange Rule 404.

<sup>7</sup> Except as otherwise provided in Interpretations and Policies of Exchange Rule 404, the interval between strike prices of series of options on individual stocks will be: (1) \$2.50 or greater where the strike price is \$25.00 or less; (2) \$5.00 or greater where the strike price is greater than \$25.00; and (3) \$10.00 or greater where the strike price is greater than \$200.00.

<sup>8</sup> The \$1 Strike Price Interval Program is described within Policy .01 of Exchange Rule 404.

<sup>9</sup> The \$0.50 Strike Program is described in Policy .04 of Exchange Rule 404.

<sup>10</sup> The \$2.50 Strike Price Program is described in Exchange Rule 404(f).

<sup>11</sup> The Exchange may have no more than a total of five Short Term Option Expiration Dates. Monday and Wednesday SPY Expirations (described in the paragraph below) are not included as part of this count. If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday. The Exchange may open for trading on any Tuesday or Wednesday that is a business day ("Wednesday SPY Expiration Opening Date") series of options on the SPDR S&P 500 ETF Trust ("SPY") that expire at the close of business on each of the next five Wednesdays that are business days and are not Wednesdays on which Quarterly Options Series expire ("Wednesday SPY Expirations"). The Exchange may have no more than a total of five Wednesday SPY Expirations. Non-Wednesday SPY Expirations (described in the paragraph above) are not included as part of this count. If the Exchange is not open for business on the respective Tuesday or Wednesday, the Wednesday SPY Expiration Opening Date will be the first business day immediately prior to that respective Tuesday or Wednesday. Similarly, if the Exchange is not open for business on a Wednesday, the expiration date for a Wednesday SPY Expiration will be the first business day immediately prior to that Wednesday. See Policy .02 of Exchange Rule 404.

<sup>12</sup> See Policy .02(c) of Exchange Rule 404.

<sup>13</sup> See Policy .02(d) of Exchange Rule 404.

(collectively “Strike Interval Proposal”). The Exchange notes that this proposal is substantively identical to the strike interval proposal recently submitted by the Nasdaq BX exchange (“BX proposal”) and approved by the Commission.<sup>18</sup>

The Exchange’s Strike Interval Proposal would limit the intervals between strikes by utilizing the table proposed within Policy .11 of Exchange Rule 404. With the Strike Interval Proposal, the Exchange would limit intervals between strikes for expiration

dates of option series beyond twenty-one days utilizing the below three-tiered table which considers both the share price and average daily volume for the option series.

Tier	Average daily volume	Share price				
		Less than \$25	\$25 to less than \$75	\$75 to less than \$150	\$150 to less than \$500	\$500 or greater
1	Greater than 5,000	\$0.50	\$1.00	\$1.00	\$5.00	\$5.00
2	Greater than 1,000 to 5,000 <sup>19</sup>	1.00	1.00	1.00	5.00	10.00
3	0 to 1,000	2.50	5.00	5.00	5.00	10.00

The table indicates the applicable strike intervals and supersedes Policy .02(d) of Rule 404, which currently allows the Exchange to open additional series for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. As a result of the proposal, Policy .02(d) would not permit an additional series of an equity option to have an expiration date more than 21 days from the listing date to be opened for trading on the Exchange despite the noted circumstances in Policy .02(d) when such additional series may otherwise be added.

The Share Price would be the closing price on the primary market on the last day of the calendar quarter. This value would be used to derive the column from which to apply strike intervals throughout the next calendar quarter. The Average Daily Volume would be the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter. Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on Customer-cleared volume at OCC. For options listed on the first trading day of a given calendar quarter, the Average Daily Volume shall be calculated using the calendar quarter prior to the last trading calendar quarter.<sup>20</sup> In the event of a corporate action, the Share Price of the surviving

company would be utilized. These metrics are intended to align expectations for determining which strike intervals will be utilized. Finally, notwithstanding the limitation imposed by proposed Policy .11 of Exchange Rule 404, this Strike Interval Proposal does not amend the range of strikes that may be listed pursuant to Policy .02 of Exchange Rule 404, regarding the Short Term Option Series Program.

By way of example, if the Share Price for a symbol was \$142 at the end of a calendar quarter, with an Average Daily Volume greater than 5,000, thereby, requiring strike intervals to be listed \$1.00 apart, that strike interval would apply for the calendar quarter, regardless of whether the Share Price changed to greater than \$150 that calendar quarter. The proposed table within Policy .11 of Exchange Rule 404 takes into account the notional value of a security, as well as Average Daily Volume in the underlying stock, in order to limit the intervals between strikes in the Short Term Options listing program. The Exchange will utilize OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. The OCC Customer-cleared volume represents the majority of options volume executed on the Exchange that, in turn, reflects the demand in the marketplace. The options series listed on the Exchange are intended to meet customer demand by offering an appropriate number of strikes. Non-Customer cleared OCC volume represents the supply side.

The strike intervals for listing strikes in certain options are intended to remove repetitive and unnecessary strike listings across the weekly

expiries. The Exchange’s Strike Interval Proposal seeks to reduce the number of strikes in the furthest weeklies, where there exist wider markets and therefore lower market quality.

The proposal is intended to remove repetitive and unnecessary strike listings across the weekly expiries. Specifically, the proposal seeks to reduce the number of strikes listed in the furthest weeklies, which generally have wider markets and therefore lower market quality. The proposed strike intervals are intended to widen permissible strike intervals in multiply listed equity options (excluding options on ETFs and ETNs) where there is less volume as measured by the Average Daily Volume tiers. Therefore, the lower the Average Daily Volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, which the Exchange believes makes the finer proposed spread between strike intervals for those symbols appropriate. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals. Today, weeklies are available on 16% of underlying products. The proposal limits the density of strikes listed in series of options, without reducing the classes of options available for trading on the Exchange. Short Term Option Series with an expiration date greater than 21 days from the listing date currently equate to 7.5% of the total number of strikes in the options market, which equals 81,00 strikes.<sup>21</sup> The Exchange expects this proposal to result in the limitation of approximately

<sup>18</sup> See *id.*

<sup>19</sup> The Exchange notes that while the term “greater than” is not present in this cell in the corresponding BX rule, the Exchange has inserted it for clarity, otherwise an Average Daily Volume of 1,000 contracts could be read to fall into two categories.

<sup>20</sup> For example, options listed as of January 4, 2021 would be calculated on January 5, 2021 using the Average Daily Volume from July 1, 2020 to September 30, 2020.

<sup>21</sup> The Exchange notes that this proposal is an initial attempt at reducing strikes and anticipates filing additional proposals to continue reducing

strikes. The percentage of underlying products and percentage of and total number of strikes, are approximations and may vary at the time of this filing.

20,000 strikes within the Short Term Option Series, which is approximately 2% of the total strikes in the options markets.<sup>22</sup> The Exchange understands there has been an inconsistency of demand for series of options beyond 21 calendar days.<sup>23</sup> The proposal takes into account customer demand for certain option classes, by considering both the Share Price and the Average Daily Volume, in order to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs,<sup>24</sup> rendering these strikes less useful. The Exchange also notes that the proposal focuses on strikes in multiply listed equity options, and excludes ETFs and ETNs, as the majority of strikes reside within equity options.

Additionally, proposed Policy .11 of Exchange Rule 404 provides that options that are newly eligible for listing pursuant to Exchange Rule 402 and designated to participate in the Short Term Option Series program pursuant to Policy .02 of Rule 404 will not be subject to proposed Policy .11 of Exchange Rule 404 until after the end of the first full calendar quarter following the date the option class was first listed for trading on any options market.<sup>25</sup> As proposed, the Exchange is permitted to list options on newly eligible listing, without having to apply the wider strike intervals, until the end of the first full calendar after such options were listed. The proposal thereby permits the Exchange to add strikes to meet customer demand in a newly listed options class. A newly eligible option class may fluctuate in price after its initial listing; such volatility reflects a natural uncertainty about the security. By deferring the application of the proposed wider strike intervals until after the end of the first full calendar quarter, additional information on the underlying security will be available to market participants and public investors, as the price of the underlying has an opportunity to settle based on the price discovery that has occurred in the primary market during this deferral period. Also, the Exchange has the

ability to list as many strikes as permissible for the Short Term Option Series once the expiry is no more than 21 days. Short Term Option Series that have an expiration date no more than 21 days from the listing date are not subject to the proposed strike intervals, which allows the Exchange to list additional, and potentially narrower, strikes in the event of market volatility or other market events. These metrics are intended to align expectations for determining which strike intervals will be utilized. Finally, proposed Policy .11 of Rule 404 provides that the proposal does not amend the range of strikes that may be listed pursuant to Policy .02, regarding the Short Term Option Series Program.

While the current listing rules permit the Exchange to list a number of weekly strikes on its market, in an effort to encourage Market Makers<sup>26</sup> to deploy capital more efficiently, as well as improve displayed market quality, the Exchange's Strike Interval Proposal reduces the number of listed weekly options. As the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal. Specifically, the Strike Interval Proposal aims to reduce the density of strike intervals that would be listed in later weeks, by creating limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date. The table takes into account customer demand for certain option classes, by considering both the Share Price and the Average Daily Volume, to arrive at the manner which weekly strike intervals may be listed. The intervals for listing strikes in equity options is intended to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs,<sup>27</sup> rendering these strikes less useful.

The Strike Interval Proposal is intended to be the first in a series of proposals to limit the number of listed options series listed on MIAAX Pearl Options and other affiliated markets. The Exchange intends to decrease the overall number of strikes listed on MIAAX exchanges in a methodical

fashion, so that it may monitor progress and feedback from its membership. While limiting the intervals between listed strikes is the goal of this rule change, the Exchange's Strike Interval Proposal is intended to balance that goal with the needs of market participants. The Exchange believes that various strike intervals continue to offer market participants the ability to select the appropriate strike interval to meet the market participant's investment objective.

## Implementation

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 90 days following the operative date of the proposed rule. The implementation date will be no later than 90 days following the issuance of the Regulatory Circular. The Exchange will issue a notice to its Members<sup>28</sup> whenever the Exchange is the first exchange to list an eligible Short Term Option Series pursuant to Policy .11 of Exchange Rule 404.<sup>29</sup>

## 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>30</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>31</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Strike Proposal seeks to limit the intervals between the strikes listed in the Short Term Options Series program that have an expiration date more than twenty-one days. While the current

<sup>22</sup> From information drawn from the time period between January 2020 and May 2020. See BX proposal, *supra* note 17.

<sup>23</sup> See BX proposal, *supra* note 17.

<sup>24</sup> For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out-of-the-money.

<sup>25</sup> For example, if an options class became newly eligible for listing pursuant to Exchange Rule 402 on March 1, 2021 (and was actually listed for trading that day), the first full quarterly lookback would be available on July 1, 2021. This option would become subject to the proposed strike intervals on July 2, 2021.

<sup>26</sup> The term "Market Makers" refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" collectively. See Exchange Rule 100.

<sup>27</sup> For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out-of-the-money.

<sup>28</sup> The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

<sup>29</sup> When the Exchange is the first exchange to list an option class under Policy .11 of Exchange Rule 404 the Exchange shall provide a notice to its Members regarding the Short Term Option Series to be listed. Such notice will include for each eligible option class: The closing price of the underlying, the Average Daily Volume of the option class; and the eligible strike category (per the proposed table) in which the eligible option class falls under as a result of the closing price and the Average Daily Volume.

<sup>30</sup> 15 U.S.C. 78f(b).

<sup>31</sup> 15 U.S.C. 78f(b)(5).

listing rules permit the Exchange to list a number of weekly strikes on its market, the Exchange's Strike Interval Proposal removes impediments to and perfects the mechanism of a free and open market and a national market system by encouraging Market Makers to deploy capital more efficiently and improving market quality overall on the Exchange through limiting the intervals between the strikes when applying the strike interval table to multiply listed equity options that have an expiration date more than twenty-one days from the listing date. Also, as the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal. Amending the Exchange's listing rules to limit the intervals between strikes for multiply listed equity options that have an expiration date more than twenty-one days causes less disruption in the market as the majority of the volume traded in weekly options exists in options series which have an expiration date of twenty-one days or less. The Exchange's Strike Interval Proposal curtails the number of strike intervals listed in series of options without reducing the number of classes of options available for trading on the Exchange.

The Strike Interval Program takes into account customer demand for certain option classes by considering both the Share Price and the Average Daily Volume in the underlying security to arrive at the manner in which weekly strike intervals would be listed in the later weeks for each multiply listed equity options class. The Exchange utilizes OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. The OCC Customer-cleared volume represents the majority of options volume executed on the Exchange that, in turn, reflects the demands in the marketplace. The options series listed on the Exchange is intended to meet customer demand by offering an appropriate number of strikes. Non-Customer cleared OCC volume represents the supply side.

The Strike Interval Proposal for listing strikes in certain multiply listed equity options is intended to remove certain strikes where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs that renders the strikes less useful and thereby protects investors and the general public by removing an abundance of unnecessary choices for an options series, while also improving

market quality. The Exchange's Strike Interval Proposal seeks to reduce the number of strikes in the furthest weeklies, where there exist wider markets, and, therefore, lower market quality. The implementation of the proposed table is intended to spread strike intervals in multiply listed equity options, where there is less volume that is measured by the average daily volume tiers. Therefore, the lower the average daily volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, therefore the finer the proposed spread between strike intervals. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals.

Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on OCC Customer-cleared volume. Utilizing the second trading day allows the Exchange to accumulate data regarding OCC Customer-cleared volume from the entire prior quarter. Beginning on the second trading day would allow trades executed on the last day of the previous calendar quarter to have settled<sup>32</sup> and be accounted for in the calculation of Average Daily Volume. Utilizing the previous three months is appropriate because this time period would help reduce the impact of unusual trading activity as a result of unique market events, such as a corporate action (*i.e.*, it would result in a more reliable measure of average daily trading volume than would a shorter period).

Today, the Exchange requires Market Makers to quote a certain amount of time in the trading day in their assigned due options series to maintain liquidity in the market.<sup>33</sup> With an increasing number of strikes due to tighter intervals being listed across options exchanges, Market Makers must expend their capital to ensure that they have the appropriate infrastructure to meet their quoting obligations on all options markets in which they are assigned in options series. The Exchange believes that this Strike Interval Proposal would limit the intervals between strikes listed on the Exchange and thereby allow Market Makers to expend their capital in the options market in a more efficient manner that removes impediments to

<sup>32</sup> Options contracts settle one business day after trade date. Strike listing determinations are made the day prior to the start of trading in each series.

<sup>33</sup> See Exchange Rule 604(e)(1); 604(e)(2); and 604(e)(3).

and perfects the mechanism of a free and open market and a national market system. The Exchange also believes that this Strike Interval Proposal would improve overall market quality on the Exchange for the protection of investors and the general public by limiting the intervals between strikes when applying the strike interval table to multiply listed equity options which have an expiration date more than twenty-one days from the listing date.

This Strike Interval Proposal is intended to be the first in a series of proposals to limit the number of listed option series listed on the Exchange and other affiliated markets. The Exchange intends to decrease the overall number of strikes listed on the MIAX exchanges in a methodical fashion in order that it may monitor progress and feedback from its membership. While limiting the intervals between strikes listed is the goal of this rule change, the Exchange's Strike Interval Proposal is intended to balance that goal with the needs of market participants. The Exchange believes that varied strike intervals continue to offer market participants the ability to select the appropriate strike interval to meet that market participant's investment objective.

The Exchange notes that its proposal is substantively identical to the strike interval proposal recently submitted by the Nasdaq BX exchange and approved by the Commission.<sup>34</sup> The Exchange notes that it has reviewed the data presented in the BX proposal and agrees with the analysis of the data as presented in the BX proposal. The Exchange believes the varied strike intervals will continue to offer market participants the ability to select the appropriate strike interval to meet that market participants' investment objectives.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Strike Interval Proposal limits the number of Short Term Options Series strike intervals available for quoting and trading on the Exchange for all Exchange participants. While the current listing rules permit the Exchange to list a number of weekly strikes on its market, in an effort to encourage Market Makers to deploy capital more efficiently, as well as improve displayed market quality, the Exchange's Strike Interval Proposal

<sup>34</sup> See supra note 17.

seeks to reduce the number of weekly options that would be listed on its market in later weeks, without reducing the number of series or classes of options available for trading on the Exchange. As the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal.

The Exchange's Strike Interval Proposal, which is intended to decrease the overall number of strikes listed on the Exchange, does not impose an undue burden on intra-market competition as all Participants may only transact options in the strike intervals listed for trading on the Exchange. While limiting the intervals of strikes listed on the Exchange is the goal of this Strike Interval Proposal, the goal continues to balance the needs of market participants by continuing to offer a number of strikes to meet a market participant's investment objective.

The Exchange's Strike Interval Proposal does not impose an undue burden on inter-market competition as this Strike Interval Proposal does not impact the listings available at another self-regulatory organization. In fact, the Exchange is proposing to list a smaller amount of weekly equity options in an effort to curtail the increasing number of strikes that are required to be quoted by market makers in the options industry. Other options markets may choose to replicate the Exchange's Strike Interval Proposal and, thereby, further decrease the overall number of strikes within the options industry.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)<sup>35</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>36</sup> Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>37</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PEARL-2021-19 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-PEARL-2021-19. 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

<sup>37</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2021-19, and should be submitted on or before June 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>38</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-09885 Filed 5-10-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91773; File No. SR-BX-2021-019]

### Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Delay the Implementation of BX's Rule Amendment To Limit Short Term Options Series Intervals to July 1, 2021

May 5, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 22, 2021, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to delay the implementation of BX's rule amendment to limit Short Term Options Series intervals between strikes which

<sup>38</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>35</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>36</sup> 17 CFR 240.19b-4(f)(6).

are available for quoting and trading from “prior to June 30, 2021” to “July 1, 2021.”

The Exchange also proposes a small amendment to the table within Supplementary Material .07 to Options 4, Section 5 to add a “greater than” to the table.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

**II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

BX received approval<sup>3</sup> to amend the Short Term Options Series program, within Options 4, Section 5, “Series of Options Contracts Open for Trading,” to limit the intervals between strikes for multiply listed equity options classes that have an expiration date more than twenty-one days from the listing date. At this time, BX proposes to delay the implementation of BX’s rule amendment to limit Short Term Options Series intervals between strikes which are available for quoting and trading from “prior to June 30, 2021” to “July 1, 2021.” The Exchange also proposes a small amendment to the table within Supplementary Material .07 to Options 4, Section 5 to add a “greater than” to the table.

Background

Once implemented, BX’s amendment to Options 4, Section 5 will limit the intervals between strikes in options listed as part of the Short Term Option

Series program that have an expiration date more than twenty-one days from the listing date. Specifically, BX will limit the intervals between strikes by utilizing the table within Supplementary Material .07 of Options 4, Section 5 for expiration dates of option series beyond twenty-one days.<sup>4</sup>

Implementation

First, the Exchange proposes to amend the implementation date to limit Short Term Options Series intervals between strikes which was proposed within its Amendment No. 1 to SR–BX–2020–032.<sup>5</sup> The Exchange proposes to amend the date from “prior to June 30, 2021” to “July 1, 2021.” The Exchange will issue an Options Trader Alert to Participants with the date of implementation.

Proposal

Second, the Exchange proposes a small amendment to the table within Supplementary Material .07 to Options 4, Section 5. The Exchange proposes to capitalize the word “greater” in Tier 1 and add the words “Greater than” within Tier 2. As proposed the table would appear as follows:

SHARE PRICE

Tier	Average daily volume	Less than \$25	\$25 to less than \$75	\$75 to less than \$150	\$150 to less than \$500	\$500 or greater
1 .....	Greater than 5,000 .....	\$0.50	\$1.00	\$1.00	\$5.00	\$5.00
2 .....	Greater than 1,000 to 5,000 .....	1.00	1.00	1.00	5.00	10.00
3 .....	0 to 1,000 .....	2.50	5.00	5.00	5.00	10.00

This non-substantive amendment is intended to bring greater clarity to BX’s rule.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>7</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by delaying the implementation to limit the intervals between strikes for multiply listed equity options classes within the Short Term Options Series program to allow the Exchange additional time to

implement related functionality. The Exchange notes that the delay is one day after the time period of the initial planned implementation.

BX’s proposed amendment to the table within Supplementary Material .07 to Options 4, Section 5 is consistent with the Act because it clarifies the tiers by adding the words “greater than” to Tier 2. The amendment will bring greater clarity to the Exchange’s rule.

*B. Self-Regulatory Organization’s Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange’s proposal to delay the implementation to limit the intervals

between strikes for multiply listed equity options classes within the Short Term Options Series program does not impose an undue burden on competition. The delay allows the Exchange additional time to implement related functionality. Also, the delay is one day after the time period of the initial planned implementation.

The proposed amendment to the table within Supplementary Material .07 to Options 4, Section 5 does not impose an undue burden on competition. The amendment will bring greater clarity to the Exchange’s rule.

<sup>3</sup> See Securities Exchange Act Release No. 91125 (February 12, 2021), 86 FR 10375 (February 19, 2021) (SR–BX–2020–032) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by

Amendment No. 1, To Amend Options 4, Section 5, To Limit Short Term Options Series Intervals Between Strikes That Are Available for Quoting and Trading on BX).

<sup>4</sup> The table considers both the share price and average daily volume for the option series.

<sup>5</sup> See *supra* note 3.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).



*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)<sup>8</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>9</sup> Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>10</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BX-2021-019 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-BX-2021-019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2021-019, and should be submitted on or before June 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-09882 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91780; File No. SR-NYSEArca-2021-09]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca Rule 6.86-O To Eliminate the Use of Dark Series on the Exchange

May 5, 2021.

#### I. Introduction

On January 26, 2021, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend NYSE Arca Rule 6.86-O to eliminate the use of "dark" series on the Exchange. The proposed rule change was published for comment in the **Federal Register** on February 5, 2021.<sup>3</sup> On March 18, 2021, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> 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 approve or disapprove the proposed rule change.<sup>5</sup> On April 27, 2021, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>6</sup> The Commission received no

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 91038 (February 1, 2021), 86 FR 8416 ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 91354, 86 FR 15764 (March 24, 2021). The Commission designated May 6, 2021, as the date by which it should approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule change.

<sup>6</sup> In Amendment No. 1, the Exchange provided data that showed that during the eighteen (18) trading days between March 1, 2021 and March 24, 2021, quotes in dark series accounted for 2.43% of NYSE Arca quotes and 1.99% of NYSE American, LLC ("NYSE American") quotes, and quotes in dark series averaged 0.174% on NYSE Arca and 0.190% on NYSE American when compared to the total OPRA disseminated quotes during the same period. The Exchange also stated that on March 4, 2021 and March 5, 2021, OPRA processed the most messages in its history and provided data that shows that on March 4th, quotes in dark series from NYSE Arca and NYSE American combined for 0.5095% compared to OPRA message traffic. On March 5th, quotes in dark series from NYSE Arca and NYSE American combined for 0.2562% when compared to OPRA quote volume. The Exchange concluded that eliminating the suppression of quotes in dark series would result in a *de minimis* increase in quotes sent by NYSE Arca and NYSE American to OPRA and have essentially no impact on messaging at an industry level. Because Amendment No. 1 to the proposed rule change does not materially alter

Continued

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

comment letters on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

Currently, NYSE Arca Rule 6.86–O (“Firm Quotes”) requires the Exchange to collect, process, and make available to quotation vendors the best bid and best offer for each option series that is a reported security unless the series is subject to an approved quote mitigation plan.<sup>7</sup> Pursuant to the quote mitigation plan set forth in Commentary .03 to NYSE Arca Rule 6.86–O, the Exchange only disseminates quotes in “active” series.<sup>8</sup> A series is considered active if the series: (i) Has traded on any options exchange in the previous 14 calendar days; (ii) is solely listed on the Exchange; (iii) has been trading ten days or less; or (iv) is a series in which the Exchange has an order.<sup>9</sup> In addition, a series may be considered active on an intraday basis if: (i) The series trades at any options exchange; (ii) the Exchange receives an order in the series; or (iii) the Exchange receives a request for quote from a customer in that series.<sup>10</sup> Any options series that does not meet the definition of an active series is deemed to be an inactive or “dark” series. Consequently, under the Exchange’s current rules, although the Exchange accepts quotes from OTP Holders in all series, the only quote messages the Exchange disseminates to the Options Price Reporting Authority (“OPRA”) are quotes for active series.<sup>11</sup> The Exchange proposes to delete Commentary .03 to Rule 6.86–O. Therefore, the proposed rule change would eliminate the distinction between active and dark

the substance of the proposed rule change, Amendment No. 1 is not subject to notice and comment. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-nysearca-2021-09/srnysearca202109.htm>.

<sup>7</sup> See NYSE Arca Rule 6.86–O(b)(1).

<sup>8</sup> The quote mitigation plan set forth in Commentary .03 to NYSE Arca Rule 6.86 was adopted in 2006 in connection with the Penny Pilot Program, a program which was subsequently approved on a permanent basis in 2020. See Notice, *supra* note 3, at 8416.

<sup>9</sup> See Commentary .03 to NYSE Arca Rule 6.86–O.

<sup>10</sup> See Commentary .03 to NYSE Arca Rule 6.86–O.

<sup>11</sup> See Notice, *supra* note 3, at 8416. See also Amendment No. 1, *supra* note 6 (providing data to support the Exchange’s conclusion that eliminating the suppression of quotes in dark series would result in a *de minimis* increase in quotes sent by NYSE Arca and NYSE American to OPRA and would have essentially no impact on messaging at an industry level).

series, and thus require quotes in all series to be disseminated to OPRA.<sup>12</sup>

## III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No.1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>13</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires that the rules of an exchange be designed, among other things, 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 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.

In support of its proposal, the Exchange states the proposed rule change would increase transparency, enhance price discovery, and alleviate potential confusion among market participants regarding what quotes are being published in the disseminated quote feed and what quotes are being suppressed.<sup>15</sup> According to the Exchange, discontinuing the use of the quote mitigation plan set forth in Commentary .03 to NYSE Arca Rule 6.86–O would result in all Market Maker quotes (including those currently being suppressed because they are considered inactive) being displayed and reflected in the market, benefitting market participants by providing notice of such liquidity and removing the element of potential confusion.<sup>16</sup>

Further, the Exchange states the proposed rule change would not change the amount of capacity needed at OPRA to accommodate the inclusion of quotes in dark series because the Exchange already includes such quotes in the Exchange’s current capacity planning requests to OPRA.<sup>17</sup> According to the

<sup>12</sup> See Notice, *supra* note 3, at 8416.

<sup>13</sup> In approving this proposed rule change, as modified by Amendment No.1, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> See Notice, *supra* note 3, at 8417 (stating that “over the years, certain market participants have expressed confusion regarding what quotes are being published and which are being suppressed”).

<sup>16</sup> See Notice, *supra* note 3, at 8417.

<sup>17</sup> See Notice, *supra* note 3, at 8416–17. The Exchange represents that it has always factored the

Exchange, the proposal would not impact market participants or downstream users that consume Exchange or OPRA data because the quote capacity information OPRA currently publishes already reflects quotes in dark series because they are part of the Exchange’s current capacity request.<sup>18</sup> Thus, according to the Exchange, market participants (including data vendors and subscribers) currently have the opportunity to prepare for and make necessary accommodations for anticipated quote traffic (including quotes in dark series).<sup>19</sup> Further, the Exchange anticipates that the proposed increase in quote message traffic due to the dissemination of quotes in inactive series is likely to be minimal and therefore unlikely to impact the flow of message traffic and/or harm downstream consumers of OPRA data.<sup>20</sup> In support of this assertion, the Exchange states that on the two trading days that OPRA processed the most messages in its history (March 4, 2021 and March 5, 2021), quotes in dark series from NYSE Arca and NYSE American combined were only 0.5095% and 0.2562%, respectively, compared to OPRA message traffic.<sup>21</sup> Finally, the Exchange states its additional existing quote mitigation strategies are sufficient to continue to mitigate quote traffic.<sup>22</sup>

The Commission believes that eliminating the exclusion or dark series from the requirements of NYSE Arca Rule 6.86–O should increase transparency and may enhance opportunities for price discovery. Publishing all quotes (not just those in active series) in the disseminated quote feed may benefit market participants because it will provide notice of additional liquidity. Further, because the Exchange currently includes Market Maker quotes in inactive series in its capacity planning request to OPRA<sup>23</sup> and because publication of dark quotes from both the Exchange and NYSE American combined would result in a percentage increase in OPRA disseminated quotes that is *de minimis*

total quote traffic it receives from Market Makers, including quotes in dark series, when making its capacity requests to OPRA. Specifically, the Exchange “presumes that all series will be active and therefore requests capacity to accommodate sending quotes in all series to OPRA.” *Id.* at 8416.

<sup>18</sup> See Notice, *supra* note 3, at 8417.

<sup>19</sup> See *id.*

<sup>20</sup> See *id.* at 8418. See also Amendment No.1, *supra* note 6.

<sup>21</sup> See Amendment No.1, *supra* note 6.

<sup>22</sup> See Notice, *supra* note 3, at 8417–18 (discussing three quote mitigation strategies the exchange currently employs to reduce the potential for excessive quoting and to reduce quote traffic).

<sup>23</sup> See *id.* at 8418.

according to the Exchange's data,<sup>24</sup> the Commission believes that dissemination of these quotes as part of the Exchange's quote feed to OPRA is not likely to negatively impact systems capacity. In addition, the Exchange has existing additional quote mitigation strategies that also serve to reduce the potential for excessive quoting.<sup>25</sup>

Accordingly, for the reasons set forth above, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act<sup>26</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>27</sup> that the proposed rule change (SR-NYSEArca-2021-09), as modified by Amendment No. 1, hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-09888 Filed 5-10-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91782; File No. SR-CBOE-2021-031]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Extend the Operation of Its Flexible Exchange Options ("FLEX Options") Pilot Program Regarding Permissible Exercise Settlement Values for FLEX Index Options

May 5, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 22, 2021, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange

<sup>24</sup> See Amendment No. 1, *supra* note 6. In addition, the Exchange states that there is sufficient capacity at OPRA to accommodate any additional quote traffic that will result from the elimination of dark series. See Notice, *supra* note 3, at 8416-17. The Exchange further notes that it does not believe its proposal will impact any other exchange's capacity at OPRA. See *id.* at 8416 n.9.

<sup>25</sup> See Notice, *supra* note 3, at 8416-17.

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to extend the operation of its Flexible Exchange Options ("FLEX Options") pilot program regarding permissible exercise settlement values for FLEX Index Options. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

\* \* \* \* \*

#### Rules of Cboe Exchange, Inc.

\* \* \* \* \*

#### Rule 4.21. Series of FLEX Options

(a) No change.

(b) *Terms.* When submitting a FLEX Order for a FLEX Option series to the System, the submitting FLEX Trader must include one of each of the following terms in the FLEX Order (all other terms of a FLEX Option series are the same as those that apply to non-FLEX Options), which terms constitute the FLEX Option series:

(1)-(4) No change.

(5) settlement type:

(A) No change.

(B) *FLEX Index Options.* FLEX Index

Options are settled in U.S. dollars, and may be:

(i) No change.

(ii) p.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported closing prices of the component securities), except for a FLEX Index Option that expires on any business day that falls on or within two business days of a third Friday-of-the-month expiration day for a non-FLEX Option (other than a QIX option) may only be a.m.-settled; however, for a pilot period ending the earlier of [May 3] *November 1, 2021* or the date on which the pilot program is approved on a permanent basis, a FLEX Index Option with an expiration date on the third-Friday of the month may be p.m.-settled;

(iii)-(iv) No change.

\* \* \* \* \*

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatory>

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

[Home.aspx](#)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

On January 28, 2010, the Securities and Exchange Commission (the "Commission") approved a Cboe Options rule change that, among other things, established a pilot program regarding permissible exercise settlement values for FLEX Index Options.<sup>5</sup> The Exchange has extended the pilot period numerous times, which is currently set to expire on the earlier of May 3, 2021 or the date on which the pilot program is approved on a permanent basis.<sup>6</sup> The purpose of this

<sup>5</sup> Securities Exchange Act Release No. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010) (SR-CBOE-2009-087) ("Approval Order"). The initial pilot period was set to expire on March 28, 2011, which date was added to the rules in 2010. See Securities Exchange Act Release No. 61676 (March 9, 2010), 75 FR 13191 (March 18, 2010) (SR-CBOE-2010-026).

<sup>6</sup> See Securities Exchange Act Release Nos. 64110 (March 23, 2011), 76 FR 17463 (March 29, 2011) (SR-CBOE-2011-024); 66701 (March 30, 2012), 77 FR 20673 (April 5, 2012) (SR-CBOE-2012-027); 68145 (November 2, 2012), 77 FR 67044 (November 8, 2012) (SR-CBOE-2012-102); 70752 (October 24, 2013), 78 FR 65023 (October 30, 2013) (SR-CBOE-2013-099); 73460 (October 29, 2014), 79 FR 65464 (November 4, 2014) (SR-CBOE-2014-080); 77742 (April 29, 2016), 81 FR 26857 (May 4, 2016) (SR-CBOE-2016-032); 80443 (April 12, 2017), 82 FR 18331 (April 18, 2017) (SR-CBOE-2017-032); 83175 (May 4, 2018), 83 FR 21808 (May 10, 2018) (SR-CBOE-2018-037); 84537 (November 5, 2018), 83 FR 56113 (November 9, 2018) (SR-CBOE-2018-071); 85707 (April 23, 2019), 84 FR 18100 (April 29, 2019) (SR-CBOE-2019-021); 87515 (November 13, 2020), 84 FR 63945 (November 19, 2019) (SR-CBOE-2019-108); 88782 (April 30, 2020), 85 FR 27004 (May 6, 2020) (SR-CBOE-2020-039); and 90279 (October 28, 2020) 85 FR 69667 (November 3, 2020) (SR-CBOE-2020-103) (extending the pilot program through the earlier of May 3, 2021 or the date on which the pilot program is approved on a permanent basis). At the same time the permissible exercise settlement values pilot was established for

Continued

rule change filing is to extend the pilot program through the earlier of November 1, 2021 or the date on which the pilot program is approved on a permanent basis. This filing simply seeks to extend the operation of the pilot program and does not propose any substantive changes to the pilot program.

Under Rule 4.21(b), *Series of FLEX Options* (regarding terms of a FLEX Option),<sup>7</sup> a FLEX Option may expire on any business day (specified to day, month and year) no more than 15 years from the date on which a FLEX Trader submits a FLEX Order to the System.<sup>8</sup> FLEX Index Options are settled in U.S. dollars, and may be a.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported opening prices of the component securities) or p.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported closing prices of the component securities).<sup>9</sup> Specifically, a FLEX Index Option that expires on, or within two business days of, a third Friday-of-the-month expiration day for a non-FLEX Option (other than a QIX option), may only be a.m. settled.<sup>10</sup> However, under the

FLEX Index Options, the Exchange also established a pilot program eliminating the minimum value size requirements for all FLEX Options. See Approval Order, *supra* note 5. The pilot program eliminating the minimum value size requirements was extended twice pursuant to the same rule filings that extended the permissible exercise settlement values (for the same extended periods) and was approved on a permanent basis in a separate rule change filing. See *id.*; and Securities Exchange Act Release No. 67624 (August 8, 2012), 77 FR 48580 (August 14, 2012) (SR-CBOE-2012-040) (Order Granting Approval of Proposed Rule Change Related to Permanent Approval of Its Pilot on FLEX Minimum Value Sizes).

<sup>7</sup> In 2019, prior Rule 24A.4.01, covering the pilot program, was relocated to current Rule 4.21(b)(5). See Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR-CBOE-2019-084).

<sup>8</sup> Except an Asian-settled or Cliquet-settled FLEX Option series, which must have an expiration date that is a business day but may only expire 350 to 371 days (which is approximately 50 to 53 calendar weeks) from the date on which a FLEX Trader submits a FLEX Order to the System.

<sup>9</sup> See Rule 4.21(b)(5)(B); see also Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR-CBOE-2019-084). The rule change removed the provision regarding the exercise settlement value of FLEX Index Options on the NYSE Composite Index, as the Exchange no longer lists options on that index for trading, and included the provisions regarding how the exercise settlement value is determined for each settlement type, as how the exercise settlement value is determined is dependent on the settlement type.

<sup>10</sup> For example, notwithstanding the pilot, the exercise settlement value of a FLEX Index Option that expires on the Tuesday before the third Friday-of-the-month could be a.m. or p.m. settled. However, the exercise settlement value of a FLEX

exercise settlement values pilot, this restriction on p.m.-settled FLEX Index Options was eliminated.<sup>11</sup> As stated, the exercise settlement values pilot is currently set to expire on the earlier of May 3, 2021 or the date on which the pilot program is approved on a permanent basis.

Cboe Options is proposing to extend the pilot program through the earlier of November 1, 2021 or the date on which the pilot program is approved on a permanent basis. Cboe Options believes the pilot program has been successful and well received by its Trading Permit Holders and the investing public for the period that it has been in operation as a pilot. In support of the proposed extension of the pilot program, and as required by the pilot program's Approval Order, the Exchange has submitted to the Commission pilot program reports regarding the pilot, which detail the Exchange's experience with the program. Specifically, the Exchange provided the Commission with annual reports analyzing volume and open interest for each broad-based FLEX Index Options class overlying a third Friday-of-the-month expiration day, p.m.-settled FLEX Index Options series.<sup>12</sup> The annual reports also contained information and analysis of FLEX Index Options trading patterns. The Exchange also provided the Commission, on a periodic basis, interim reports of volume and open interest. In providing the pilot reports to the Commission, the Exchange has previously requested confidential treatment of the pilot reports under the Freedom of Information Act ("FOIA").<sup>13</sup>

The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot

Index Option that expires on the Wednesday before the third Friday-of-the-month could only be a.m. settled.

<sup>11</sup> No change was necessary or requested with respect to FLEX Equity Options. Regardless of the expiration date, FLEX Equity Options are settled by physical delivery of the underlying.

<sup>12</sup> The annual reports also contained certain pilot period and pre-pilot period analyses of volume and open interest for third Friday-of-the-month expiration days, a.m.-settled FLEX Index series and third Friday-of-the-month expiration day Non-FLEX Index series overlying the same index as a third Friday-of-the-month expiration day, p.m.-settled FLEX Index option.

<sup>13</sup> 5 U.S.C. 552; see *infra* note 12.

program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement (as discussed below).

In that regard, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, Cboe Options continues to believe that the restrictions on exercise settlement values are no longer necessary to insulate Non-FLEX expirations from the potential adverse market impacts of FLEX expirations.<sup>14</sup> To the contrary, Cboe Options believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of

<sup>14</sup> In further support, the Exchange also notes that the p.m. settlements are already permitted for FLEX Index Options on any other business day except on, or within two business days of, the third Friday-of-the-month. The Exchange is not aware of any market disruptions or problems caused by the use of these settlement methodologies on these expiration dates (or on the expiration dates addressed under the pilot program). The Exchange is also not aware of any market disruptions or problems caused by the use of customized options in the over-the-counter ("OTC") markets that expire on or near the third Friday-of-the-month and are p.m. settled. In addition, the Exchange believes the reasons for limiting expirations to a.m. settlement, which is something the SEC has imposed since the early 1990s for Non-FLEX Options, revolved around a concern about expiration pressure on the New York Stock Exchange ("NYSE") at the close that are no longer relevant in today's market. Today, the Exchange believes stock exchanges are able to better handle volume. There are multiple primary listing and unlisted trading privilege ("UTP") markets, and trading is dispersed among several exchanges and alternative trading systems. In addition, the Exchange believes that surveillance techniques are much more robust and automated. In the early 1990s, it was also thought by some that opening procedures allow more time to attract contra-side interest to reduce imbalances. The Exchange believes, however, that today, order flow is predominantly electronic and the ability to smooth out openings and closes is greatly reduced (e.g., market-on-close procedures work just as well as openings). Also, other markets, such as the NASDAQ Stock Exchange, do not have the same type of pre-opening imbalance disseminations as NYSE, so many stocks are not subject to the same procedures on the third Friday-of-the-month. In addition, the Exchange believes that NYSE has reduced the required time a specialist has to wait after disseminating a pre-opening indication. So, in this respect, the Exchange believes there is less time to react in the opening than in the close. Moreover, to the extent there may be a risk of adverse market effects attributable to p.m. settled options that would otherwise be traded in a non-transparent fashion in the OTC market, the Exchange continues to believe that such risk would be lessened by making these customized options eligible for trading in an exchange environment because of the added transparency, price discovery, liquidity, and financial stability available.

transparency, price discovery, liquidity, and financial stability.

The Exchange also notes that certain position limit, aggregation and exercise limit requirements continue to apply to FLEX Index Options in accordance with Rules 8.35, *Position Limits for FLEX Options*, 8.42(g) *Exercise Limits* (in connection with FLEX Options) and 8.43(j), *Reports Related to Position Limits* (in connection with FLEX Options). Additionally, all FLEX Options remain subject to the general position reporting requirements in Rule 8.43(a).<sup>15</sup> Moreover, the Exchange and its Trading Permit Holder organizations each have the authority, pursuant to Rule 10.9, *Margin Required is Minimum*, to impose additional margin as deemed advisable. Cboe Options continues to believe these existing safeguards serve sufficiently to help monitor open interest in FLEX Option series and significantly reduce any risk of adverse market effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement.

Cboe Options is also cognizant of the OTC market, in which similar restrictions on exercise settlement values do not apply. Cboe Options continues to believe that the pilot program is appropriate and reasonable and provides market participants with additional flexibility in determining whether to execute their customized options in an exchange environment or in the OTC market. Cboe Options continues to believe that market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to, enhanced efficiency in initiating and closing out positions, increased market transparency, and heightened counterparty creditworthiness due to the role of

the Options Clearing Corporation as issuer and guarantor of FLEX Options.

If, in the future, the Exchange proposes an additional extension of the pilot program, or should the Exchange propose to make the pilot program permanent, the Exchange will submit, along with any filing proposing such amendments to the pilot program, an annual report (addressing the same areas referenced above and consistent with the pilot program's Approval Order) to the Commission at least two months prior to the expiration date of the program. The Exchange will also continue, on a periodic basis, to submit interim reports of volume and open interest consistent with the terms of the exercise settlement values pilot program as described in the pilot program's Approval Order. Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the pilot program is consistent with the Exchange Act. The Exchange is in the process of making public on its website all data and analyses previously submitted to the Commission under the pilot program, and will make public any data and analyses it submits to the Commission under the pilot program in the future.<sup>16</sup>

As noted in the pilot program's Approval Order, any positions established under the pilot program would not be impacted by the expiration of the pilot program.<sup>17</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>18</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>19</sup> requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation

and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>20</sup> requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed extension of the pilot program, which permits an additional exercise settlement value, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange believes that it has not experienced any adverse effects from the operation of the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and are p.m.-settled. The Exchange also believes that the extension of the exercise settlement values pilot does not raise any unique regulatory concerns. In particular, although p.m. settlements may raise questions with the Commission, the Exchange believes that, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, market impact and investor protection concerns will not be raised by this rule change. The Exchange also believes that the proposed rule change would continue to provide Trading Permit Holders and investors with additional opportunities to trade customized options in an exchange environment (which offers the added benefits of transparency, price discovery, liquidity, and financial stability as compared to the over-the-counter market) and subject to exchange-based rules, and investors would benefit as a result.

## B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided

<sup>15</sup> Rule 8.43(a) provides that "[i]n a manner and form prescribed by the Exchange, each Trading Permit Holder shall report to the Exchange, the name, address, and social security or tax identification number of any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts dealt in on the Exchange. The report shall indicate for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered." For purposes of Rule 8.43, the term "customer" in respect of any Trading Permit Holder includes "the Trading Permit Holder, any general or special partner of the Trading Permit Holder, any officer or director of the Trading Permit Holder, or any participant, as such, in any joint, group or syndicate account with the Trading Permit Holder or with any partner, officer or director thereof." Rule 8.43(d).

<sup>16</sup> Available at <https://www.cboe.com/aboutcboe/legal-regulatory/national-market-system-plans/pm-settlement-flex-pm-data>.

<sup>17</sup> For example, a position in a p.m.-settled FLEX Index Option series that expires on the third Friday-of-the-month in January 2020 could be established during the exercise settlement values pilot. If the pilot program were not extended (or made permanent), then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. See Approval Order at footnote 3, *supra* note 6.

<sup>18</sup> 15 U.S.C. 78f(b).

<sup>19</sup> 15 U.S.C. 78f(b)(5).

<sup>20</sup> *Id.*

investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-Flex expirations and use a p.m. settlement. Cboe Options believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability. Therefore, the Exchange does not believe that the proposed rule change will impose any burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>21</sup> and Rule 19b-4(f)(6) thereunder.<sup>22</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>23</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>24</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative

<sup>21</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>22</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>23</sup> 17 CFR 240.19b-4(f)(6).

<sup>24</sup> 17 CFR 240.19b-4(f)(6)(iii).

immediately upon filing. The Exchange states that such waiver will allow the Exchange to extend the pilot program and maintain the status quo, thereby reducing market disruption.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>25</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2021-031 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2021-031. 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

<sup>25</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2021-031, and should be submitted on or before June 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-91781; File No. SR-Phlx-2020-41]

**Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To List and Trade Options on a Nasdaq-100 Volatility Index**

May 5, 2021.

**I. Introduction**

On August 24, 2020, Nasdaq PHLX LLC ("Exchange" or "Phlx") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade options on a Nasdaq-100 Volatility Index ("Volatility

<sup>26</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

Index” or “VOLQ”). The proposed rule change was published for comment in the **Federal Register** on September 8, 2020.<sup>3</sup> On October 20, 2020, pursuant to Section 19(b)(2) of the Act,<sup>4</sup> 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.<sup>5</sup> On December 4, 2020, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act<sup>6</sup> to determine whether to approve or disapprove the proposed rule change.<sup>7</sup> On March 4, 2021, the Commission designated a longer period for Commission action on the proposed rule change.<sup>8</sup> On March 11, 2021, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change.<sup>9</sup> On April 19, 2021, the Exchange filed partial Amendment No. 2 to the proposed rule change.<sup>10</sup> The

<sup>3</sup> See Securities Exchange Act Release No. 89725 (September 1, 2020), 85 FR 55544 (“Notice”). Comments on the proposed rule change can be found on the Commission’s website at: <https://www.sec.gov/comments/sr-phlx-2020-41/srphlx202041.htm>.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 90226, 85 FR 67781 (October 26, 2020). The Commission designated December 7, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See Securities Exchange Act Release No. 90573, 85 FR 79552 (December 10, 2020).

<sup>8</sup> See Securities Exchange Act Release No. 91254, 86 FR 13772 (March 10, 2021) (designating May 6, 2021 as the date by which the Commission shall approve or disapprove the proposal).

<sup>9</sup> In Amendment No. 1, the Exchange: (i) Sets the end of the trading session for options on the Volatility Index at 4:00 p.m. ET instead of 4:15 p.m. ET; (ii) expands the venues of the thirty-two underlying Nasdaq-100 Index component options used to calculate the Closing Volume Weighted Average Price (*i.e.*, settlement value for the Volatility Index options), which will be determined by reference to prices and sizes of executed orders or quotes on Phlx to also include Nasdaq ISE, LLC (“ISE”) and Nasdaq GEMX, LLC (“GEMX”); (iii) clarifies that The Nasdaq Stock Market LLC shall be the reporting authority for the VOLQ Index; (iv) states that executed orders shall include simple orders and complex orders, and that individual leg executions of a complex order will only be included if the executed price of the leg is at or within the national best bid or offer (“NBBO”); (v) commits to providing an annual report to the Commission for five years containing certain settlement data; (vi) states that Phlx will surveil for open interest in VOLQ in addition to Nasdaq-100 trading volume prior to settlement; and (vii) makes other clarifying and conforming changes throughout the filing. Amendment No. 1 is available at: <https://www.sec.gov/comments/sr-phlx-2020-41/srphlx202041-8486517-229965.pdf>.

<sup>10</sup> In Amendment No. 2, the Exchange removes the word “non-public” from the description of the annual report it will provide to the Commission. Amendment No. 2 is available at: <https://www.sec.gov/comments/sr-phlx-2020-41/srphlx202041-8687377-235663.pdf>.

Commission is publishing this notice to solicit comments on Amendment Nos. 1 and 2 from interested persons, and is approving the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

## II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2<sup>11</sup>

The Exchange proposes to list and trade options on VOLQ, a new index that measures changes in 30-day implied volatility of the Nasdaq-100 Index (“Nasdaq-100 Index” or “NDX”). As proposed, options on VOLQ will be cash-settled and will have European-style exercise provisions. The Exchange states that the Volatility Index will measure “at-the-money” volatility by using published real-time bid/ask quotes of NDX options and will be disseminated in annualized percentage points.

The Exchange proposes to list up to six weekly expirations and up to 12 standard (monthly) expirations in Volatility Index options. The six weekly expirations will be for the nearest weekly expirations from the actual listing date, and the weekly expirations will not expire in the same week in which standard (monthly) Volatility Index options expire. Standard (monthly) expirations in the Volatility Index options will not be counted as part of the maximum six weekly expirations permitted for Volatility Index options. In addition, the Exchange proposes that long term option series having up to sixty months to expiration may be listed and traded.

### Volatility Index Design and Composition

The Exchange states that the Volatility Index reflects changes in 30-day implied volatility, which measures the magnitude of changes of the underlying broad-based securities index, NDX. According to the Exchange, the Volatility Index measures the expectation for market volatility over the next thirty calendar days as expressed by options on NDX. The Exchange explains that the Volatility Index uses the bid and offer prices of certain listed options on NDX to obtain the prices of synthetic precisely at-the-money options, which are then used to calculate 30-day closed-form implied volatility. Finally, the 30-day closed-form implied volatility is multiplied by 100 to calculate the Volatility Index level. The Volatility Index is quoted in annualized percentage points.

<sup>11</sup> Additional information regarding the proposal can be found in Amendment No. 1, *supra* note 9.

The Exchange believes that the proposed product does not have single or aggregated component concentration risk. The Exchange states that the methodology caps each single component as well as the top five weighted components. The Exchange further states that no component security of the Volatility Index comprises more than 12.50% of the index’s weighting and that the five highest weighted component securities of the Volatility Index in the aggregate do not comprise more than 43.75% of the index’s weighting.

### Index Calculation and Maintenance

The Exchange states that the level of the Volatility Index will reflect the current 30-day implied volatility of NDX and will be updated on a real-time basis on each trading day beginning at 9:30 a.m. and ending at 4:00 p.m. ET. If the current published value of a component is not available, the last published value will be used in the calculation. Values of the Volatility Index will be disseminated via the Nasdaq GIDS market data system every fifteen seconds during the Exchange’s regular trading hours to market information vendors such as Bloomberg and Thomson Reuters. In the event the Volatility Index ceases to be maintained or calculated the Exchange will not list any additional series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

### Exercise and Settlement Value

The exercise settlement value calculation used for Volatility Index option settlement will be calculated on the Volatility Index Options expiration date, the specific date (usually a Wednesday) identified in the option symbol for the series. If that Wednesday or the Friday that is thirty days following that Wednesday is an Exchange holiday, the exercise settlement value will be calculated on the business day immediately preceding that Wednesday. The last trading day for a Volatility Index option will be the business day immediately preceding the expiration date. When the last trading day is moved because of an Exchange holiday, the last trading day for an expiring Volatility Index option contract will be the day immediately preceding the last regularly scheduled business day.

Monthly options on the Volatility Index will expire on the Wednesday that is thirty days prior to the third Friday of the following the expiring month. Trading in expiring options on

the Volatility Index will normally cease at 4:00 p.m. ET on the Tuesday preceding an expiration Wednesday.

#### Final Settlement

The Exchange states that the final settlement price (Ticker Symbol: VOLS) will be calculated as described below on Wednesday commencing at 9:32:000 a.m. ET on the expiration day, and continuing each second for the next 300 seconds ("Closing Settlement Period"). The exercise settlement amount will be equal to the difference between the final settlement price and the exercise price of the option, multiplied by \$100. Exercise will result in the delivery of cash on the business day following expiration.

The Volatility Index's component NDX options are listed on Phlx as well as on ISE and GEMX. The settlement value for the Volatility Index options will be the Closing Volume Weighted Average Price, to be determined by reference to the prices and sizes of executed orders or quotes in the thirty-two underlying NDX component options on the Phlx, ISE, and GEMX markets calculated near the opening of trading on the expiration date. The Exchange will observe the number of contracts resulting from orders and quotes of the then-current NDX component options executed on Phlx, ISE, and GEMX at each price during individual one-second intervals of the Closing Settlement Period on the expiration day.<sup>12</sup> If no transactions occur on Phlx, ISE, or GEMX in an NDX component option during any one-second observation period, the NBBO midpoint of each of the NDX component options for which a transaction has not occurred at the end of the one-second observation period will be considered the One Second VWAP for that observation period for purposes of the settlement methodology. The NBBO midpoint will be the midpoint of the best bid and best offer from Phlx, ISE, and GEMX. Each One Second VWAP for each component option is then used to calculate the Volatility Index, resulting in the calculation of 300 sequential Volatility Index values. Finally, the Exchange states that all 300 Volatility Index values will be arithmetically averaged (*i.e.*, the sum of 300 Volatility Index calculations is divided by 300) and the resulting figure is rounded to the nearest .01 to arrive at the settlement value.

<sup>12</sup> The Exchange calculates a volume weighted average price for each one-second observation period (a "One Second VWAP") for each component option.

#### Contract Specifications

The proposed options on the Volatility Index are European-style and cash-settled. The Exchange states that the trading hours for Volatility Index options will be 9:30 a.m. to 4:00 p.m. ET. The Exchange proposes to apply margin requirements for the purchase and sale of options on the Volatility Index that are identical to those applied for its other broad-based index options.

The Exchange states that trading of options on the Volatility Index will be subject to the trading halt procedures applicable to other index options traded on the Exchange. Options on the Volatility Index will be quoted and traded in U.S. dollars. Accordingly, the Exchange believes that all Exchange and The Options Clearing Corporation members will be able to accommodate trading, clearance, and settlement of the Volatility Index without alteration. All options on the Volatility Index will have a minimum increment of \$0.05 for options trading below \$3.00 and \$0.10 for all other series.

The Exchange proposes to set the minimum strike price interval for options on the Volatility Index at \$0.50 or greater where the strike price is less than \$75, \$1 or greater where the strike price is \$200 or less, and \$5 or greater where the strike price is more than \$200. The Exchange proposes that there shall be no position or exercise limits for options on the Volatility Index and that trading of options on the Volatility Index will be subject to the same rules that presently govern the trading of Exchange index options, including sales practice rules, margin requirements, and trading rules.

The Exchange believes that it is unlikely that the Volatility Index settlement value could be manipulated because the likelihood of gaming the components over a 300-second period is extremely low. The Exchange states that because the 32 component option inputs are determined each second (meaning that Volatility Index components could change 300 times during the settlement period), market participants would have to predict market moves over the full settlement period in order to manipulate the settlement value. Additionally, the Exchange believes that traders are subject to highly competitive market forces of deep and established market liquidity. For example, the Exchange notes that during each second of the final settlement observation period on January 16, 2019 and February 13, 2019, the average notional value of each bid of the thirty-two components was \$21.1 million; the average notional value of each offer was \$13.5 million. Finally,

the Exchange states that since the Volatility Index assesses each second of all listed NDX options, this is a continuous assessment of competitive price action and voluminous trading activity for all Nasdaq-100 Index stock components. In support, the Exchange notes that during the final settlement observation period (five-minute period) on January 16, 2019 and February 13, 2019, the average summation of traded volume for all Nasdaq-100 Index component shares was 18.8 million shares. The Exchange states that the average total value of all Nasdaq-100 Index shares traded during the final settlement observation period was \$1.93 billion and the corresponding market capitalization for all Nasdaq-100 Index components during the final settlement period was \$7.8 trillion.

The Exchange represents that it has an adequate surveillance program in place for options traded on the Volatility Index and intends to apply those same program procedures that it applies to the Exchange's other options products. Additionally, the Exchange states that it is a member of the Intermarket Surveillance Group, through which it can coordinate surveillance and investigative information sharing in the stock and options markets with all of the U.S. registered stock and options markets. Phlx believes that its surveillance procedures currently in place, coupled with additional surveillance measures, will allow it to adequately surveil for any potential manipulation in the trading of Volatility Index options. The Exchange states it will monitor the integrity of the Volatility Index by analyzing trades, quotations, and orders that affect any of the 300 calculated reference prices for any of the NDX option series used for the final settlement calculation for potential manipulation. In particular, the Exchange states it will: (i) Monitor all NDX NBBO quotes and trades (including but not limited to NDX quotes and trades on the Exchange) during the opening for all options series that are used as part of the final settlement; (ii) surveil for open interest manipulation by monitoring VOLQ and NDX trading volume prior to settlement; (iii) monitor trading on Phlx, ISE, and GEMX after the Closing Settlement Period for possible wash trading, pre-arranged, or related artificial activity; and (iv) compare quotes for settlement against quotes for non-settlement in the 32 NDX option series used for settlement between the opening and a period of time thereafter, with a focus on identifying deviations of the midpoint, the bid-ask spread, and other



market elements compared to the Nasdaq-100 Index value. The Exchange also represents that it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading of options on the Volatility Index.

The Exchange committed to providing the Commission an annual report each year for 5 years on the anniversary of the first day of trading of VOLQ options. The annual report shall consist of twelve monthly data files, one for each month, with settlement information from the prior year which contains: (1) One-second NBBO (bid price, bid size, offer price, offer size, exchange code for bid and offer, time stamp and timestamp reference) and Options Price Reporting Authority trade data (trade price, volume, exchange code, trade indicator, exchange code) for the VOLS NDX component options from 9:30:00 a.m. ET to 9:45:00 a.m. ET; (2) all VOLS one-second index values (over the final settlement window between 9:32:01 a.m. ET and 9:37:00 a.m. ET) used in deriving the final settlement value for Nasdaq-100 Volatility Index futures contracts; and (3) expiring VOLQ options open interest.

### III. Discussion and Commission Findings

After careful review of the proposed rule change, as modified by Amendment Nos. 1 and 2, as well as comment received, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>13</sup> In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act,<sup>14</sup> which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In support of its proposal, the Exchange states that the Volatility Index final settlement has exceedingly high hurdles for potential manipulation. First, the Exchange believes that market participants cannot predict which components will be included in the

final settlement. Second, the Exchange believes that traders are subject to competitive market forces of deep and established market liquidity. In addition, the Exchange amended its proposal to incorporate all trades in the component options into the settlement calculation, rather than only trades occurring on the Exchange, and to specify that legs of complex order transactions would only be included in the calculation if they were at or within the NBBO. The Exchange also committed to provide five years of monthly settlement data on an annual basis.<sup>15</sup>

The Exchange also states that the proposal will facilitate the listing and trading of an index option product with a novel structure, which would enhance competition among market participants. A commenter, who states it is the provider of the VOLQ methodology, also expressed support for the proposal. The commenter states that VOLQ is a response to requests from market participants and that competition and innovation generated by VOLQ are in the public interest and will benefit investors.<sup>16</sup>

The Commission believes that the Exchange's proposal, including the settlement methodology, as amended, in conjunction with the Exchange's existing and additional proposed surveillance procedures, will help to ensure that the settlement value is not readily susceptible to manipulation. The amended settlement methodology incorporates additional trade information by including transactions on all markets trading the component NDX options while ensuring that individual leg executions of complex orders that may have traded through the NBBO are not included in the settlement calculation. The Commission believes this will contribute to a more robust settlement methodology. The Volatility Index and the settlement value are calculated based on quotes, orders, or trades in the component NDX options and the settlement value calculation relies on 32 unique inputs each second over 300 seconds. The 32 component NDX options that are the

basis of such inputs may change every second over the settlement window depending on the value of the Nasdaq-100 Index. The Exchange states that it will monitor for any potential manipulation of the Volatility Index settlement value in the normal course of its surveillance. Additionally, the Exchange has proposed enhanced surveillance procedures to further analyze trades, quotations, and orders that affect any of the 300 calculated reference prices for any NDX option series used for the final settlement calculation. The Commission believes the Exchange's existing and additional surveillance procedures will allow the Exchange to monitor for anomalous trades, quotations, and orders that may be indicative of manipulative trading or quoting activity. The Commission finds that the Exchange's proposal regarding surveillance of options on the Volatility Index and the component option series will allow it to adequately surveil for any potential manipulation in the trading of VOLQ. Therefore, the Commission finds the settlement design, as amended, when combined with the Exchange's existing and proposed enhanced surveillance procedures, will prevent fraudulent and manipulative acts and practices and protect investors and the public interest.

The Commission believes that the Exchange's proposal to impose no position limits on the Volatility Index options is appropriate and consistent with the Act. As stated above, the Volatility Index will settle using published volume and/or quotes from NDX options. Given that there are currently no position limits for NDX options,<sup>17</sup> the Commission believes it is appropriate for there to be no position or exercise limits<sup>18</sup> for options on the Volatility Index since the potential manipulation and potential market disruption concerns that position limits are designed to address are mitigated in the case of this product. According to the Exchange, the market capitalization of the NDX was approximately \$11.42 trillion and contained approximately 74.7 billion component shares as of June 30, 2020. The Commission believes that the enormous market capitalization of NDX and the deep, liquid market for the underlying component securities significantly reduce concerns regarding market manipulation or disruption in the underlying market. Similar

<sup>13</sup> In approving 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).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

<sup>15</sup> In Amendment No. 2, the Exchange removed the word "non-public" from its description of the annual report it would provide to the Commission. See Amendment No. 2, *supra* note 10. The provision of annual settlement data for five years will assist the Commission in monitoring settlement inputs and values and assessing how the market for VOLQ and the underlying NDX component options may change over time.

<sup>16</sup> See letter dated September 16, 2020 from Scott Nations, President, Nations Indexes, to Vanessa Countryman, Secretary, Commission, available at: <https://www.sec.gov/comments/sr-phlx-2020-41/srphlx202041-7783670-223493.pdf>.

<sup>17</sup> See Phlx Options 4A, Section 6, "Position Limits," section (a)(ii).

<sup>18</sup> Phlx Options 4A, Section 10, "Exercise Limits," provides "In determining compliance with Options 9, Section 15, exercise limits for index option contracts shall be equivalent to the position limits described in Options 4A, Section 6."

reasoning would apply to options on the Volatility Index since the value of options on the Volatility Index is derived from the volatility of NDX, as implied by its options. Moreover, the Commission believes that having no position limits for the proposed Volatility Index options may benefit investors by bringing additional depth and liquidity to these Volatility Index options without raising significant concerns about potential manipulation or potential market disruption.

The Commission believes that the proposed strike price intervals and minimum trading increments for options on the Volatility Index are appropriate and consistent with the Act. These aspects of the proposal will provide investors with added flexibility in the trading of these options and will further the public interest by allowing investors to establish positions that are better tailored to meet their investment objectives. In addition, the Exchange states it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading of options on the Volatility Index.

As a national securities exchange, the Exchange is required, under Section 6(b)(1) of the Act,<sup>19</sup> to enforce compliance by its members and persons associated with its members with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. In this regard, the Exchange states that trading of options on the Volatility Index will be subject to the same rules that currently govern the trading of other index options on the Exchange. The Commission believes that it is consistent with the Act to apply Exchange rules governing, among other things, margin requirements and trading halt procedures to the proposed Volatility Index options that are otherwise applicable to options on broad-based indexes.<sup>20</sup> The Commission believes that the Exchange's rules governing the trading of the Volatility Index options on the Exchange help to ensure the maintenance of fair and orderly markets for the options on the Volatility Index, which is consistent with the protection of investors and the public interest. Therefore, the Commission finds that the Exchange's

rules relating to trading of the options on the Volatility Index on the Exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Accordingly, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with Section 6(b)(5) of the Act<sup>21</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Solicitation of Comments on Amendment Nos. 1 and 2 to the Proposed Rule Change

Interested persons are invited to submit written views, data, and arguments concerning whether Amendment Nos. 1 and 2 are 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2020-41 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-Phlx-2020-41. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2020-41 and should be submitted on or before June 1, 2021.

#### V. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment Nos. 1 and 2 in the **Federal Register**. In Amendment No. 1, among other things,<sup>22</sup> the Exchange modifies certain aspects of the proposal, including changes to the settlement methodology that incorporate additional pricing information, and commits to provide the Commission with annual settlement data for five years. In Amendment No. 2, the Exchange removes the word "non-public" from the description of the annual settlement data it will provide to the Commission.<sup>23</sup> The changes to the proposal and additional information in Amendment Nos. 1 and 2 assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> to approve the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

#### VI. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>25</sup> that the proposed rule change (SR-Phlx-2020-41), as modified by Amendment Nos. 1 and 2, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**J. Matthew DeLesDernier**,  
Assistant Secretary.

[FR Doc. 2021-09889 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>19</sup> 15 U.S.C. 78f(b)(1).

<sup>20</sup> The Commission's approval of the listing and trading of the Volatility Index, which the Exchange proposes to treat as a broad-based index for purposes of certain of its options rules, does not address or relate to whether or not the index is broad-based for any other purposes, including for purposes of the definition of "narrow-based security index" in Section 3(a)(55)(B) of the Act and any related Commission orders.

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> See *supra* note 9.

<sup>23</sup> See *supra* note 10.

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</sup> *Id.*

<sup>26</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91776; File No. SR-MIAX-2021-12]

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404 To Limit Short Term Options Series Intervals Between Strikes

May 5, 2021.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 21, 2021, Miami International Securities Exchange, LLC (“MIAX Options” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options’ principal office, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend Rule 404, Series of Option Contracts Open for Trading. Specifically, this proposal seeks to limit the intervals between strikes for multiply listed equity options classes within the Short Term Options Series program that have an expiration date more than twenty-one days from the listing date.

##### Background

Today, Exchange Rule 404 permits the Exchange, after a particular class of options (call option contracts or put option contracts relating to a specific underlying stock, Exchange-Traded Fund Share,<sup>3</sup> or ETNs) has been approved for listing and trading on the Exchange, to open for trading series of options therein. The Exchange may list series of options for trading on a weekly,<sup>4</sup> monthly,<sup>5</sup> or quarterly<sup>6</sup> basis. Exchange Rule 404(d) sets forth the intervals between strike prices of series of options on individual stocks.<sup>7</sup> In addition to those intervals, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,<sup>8</sup> the \$0.50 Strike Program,<sup>9</sup> and the \$2.50 Strike Price Program.<sup>10</sup>

The Exchange’s proposal seeks to amend the listing of weekly series of options as proposed within Policy .02(f) of Exchange Rule 404, by limiting the intervals between strikes in multiply

listed equity options, excluding Exchange-Traded Fund Shares and ETNs, that have an expiration date more than twenty-one days from the listing date. This proposal does not amend monthly or quarterly listing rules nor does it amend the \$1 Strike Price Interval Program, the \$0.50 Strike Program, or the \$2.50 Strike Price Program.

##### Short Term Options Series Program

Today, Policy .02 of Exchange Rule 404 permits the Exchange to open for trading on any Thursday or Friday that is a business day (“Short Term Option Opening Date”) series of options on an option class that expires at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire (“Short Term Option Expiration Dates”), provided an option class has been approved for listing and trading on the Exchange.<sup>11</sup> Today, the Exchange may open up to thirty initial series for each option class that participates in the Short Term Options Series Program.<sup>12</sup> Further, if the Exchange opens less than thirty (30) Short Term Option Series for a Short Term Option Expiration Date, additional series may be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves

<sup>3</sup> Securities deemed appropriate for options trading shall include share or other securities (“Exchange-Traded Fund Shares”) that are traded on a national securities exchange and are defined as an “NMS stock” under Rule 600 of Regulation NMS. See Exchange Rule 402(i).

<sup>4</sup> The weekly listing program is known as the Short Term Options Series Program and is described in Policy .02 of Exchange Rule 404.

<sup>5</sup> Except as otherwise provided in Exchange Rule 404 and Interpretations and Policies hereto, at the commencement of trading on the Exchange of a particular type of option of a class of options, the Exchange shall open a minimum of one expiration month and series for each class of options open for trading on the Exchange. See Exchange Rule 404(b).

<sup>6</sup> The quarterly listing program is known as the Quarterly Options Series Program and is described in Policy .03 of Exchange Rule 404.

<sup>7</sup> Except as otherwise provided in Interpretations and Policies of Exchange Rule 404, the interval between strike prices of series of options on individual stocks will be: (1) \$2.50 or greater where the strike price is \$25.00 or less; (2) \$5.00 or greater where the strike price is greater than \$25.00; and (3) \$10.00 or greater where the strike price is greater than \$200.00.

<sup>8</sup> The \$1 Strike Price Interval Program is described within Policy .01 of Exchange Rule 404.

<sup>9</sup> The \$0.50 Strike Program is described in Policy .04 of Exchange Rule 404.

<sup>10</sup> The \$2.50 Strike Price Program is described in Exchange Rule 404(f).

<sup>11</sup> The Exchange may have no more than a total of five Short Term Option Expiration Dates. Monday and Wednesday SPY Expirations (described in the paragraph below) are not included as part of this count. If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday. The Exchange may open for trading on any Tuesday or Wednesday that is a business day (“Wednesday SPY Expiration Opening Date”) series of options on the SPDR S&P 500 ETF Trust (“SPY”) that expire at the close of business on each of the next five Wednesdays that are business days and are not Wednesdays on which Quarterly Options Series expire (“Wednesday SPY Expirations”). The Exchange may have no more than a total of five Wednesday SPY Expirations. Non-Wednesday SPY Expirations (described in the paragraph above) are not included as part of this count. If the Exchange is not open for business on the respective Tuesday or Wednesday, the Wednesday SPY Expiration Opening Date will be the first business day immediately prior to that respective Tuesday or Wednesday. Similarly, if the Exchange is not open for business on a Wednesday, the expiration date for a Wednesday SPY Expiration will be the first business day immediately prior to that Wednesday. See Policy .02 of Exchange Rule 404.

<sup>12</sup> See Policy .02(c) of Exchange Rule 404.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

substantially from the exercise price or prices of the series already opened.<sup>13</sup>

The Exchange may open for trading Short Term Option Series on the Short Term Option Opening Date that expire on the Short Term Option Expiration Date. The strike price interval for Short Term Option Series may be \$0.50 or greater for option classes that trade in \$1 strike price intervals and are in the Short Term Option Series Program. If the class does not trade in \$1 strike price intervals, the strike price interval for Short Term Option Series may be \$0.50 or greater where the strike price is less than \$100 and \$1.00 or greater where the strike price is between \$100 and \$150, and \$2.50 or greater for strike prices greater than \$150.<sup>14</sup> A non-Short Term Option series that is included in a class that has been selected to participate in the Short Term Option Series Program is referred to as a “Related non-Short Term Option.” Notwithstanding any other provision regarding strike prices in Exchange Rule 404, Related non-Short Term Option series shall be opened during the month prior to expiration in the same manner as permitted in Exchange Rule 404, Interpretations and Policies .02, and in

the same strike price intervals for the Short Term Option Series.<sup>15</sup>

The Exchange may select up to fifty (50) currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the 50 option class restriction, the Exchange may also list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each option class eligible for participation in the Short Term Option Series Program, the Exchange may open up to thirty (30) Short Term Option Series for each expiration date in that class.<sup>16</sup>

The Exchange notes that listings in the weekly program comprise a significant part of the standard listing in options markets and that over the five years the industry has observed a notable increase in the compound annual growth rate (“CAGR”) of weekly strikes as compared to CAGR for standard third-Friday expirations.<sup>17</sup>

Proposal

The Exchange proposes to limit the intervals between strikes in options

listed as part of the Short Term Option Series Program that have an expiration date more than twenty-one days from the listing date, by adopting proposed Policy .11 to Exchange Rule 404, as well as paragraph (f) of Policy .02 to Exchange Rule 404, with respect to listing Short Term Option Series in equity options, (excluding Exchange-Traded Fund Shares and ETNs) (collectively “Strike Interval Proposal”). The Exchange notes that this proposal is substantively identical to the strike interval proposal recently submitted by the Nasdaq BX exchange (“BX proposal”) and approved by the Commission.<sup>18</sup>

The Exchange’s Strike Interval Proposal would limit the intervals between strikes by utilizing the table proposed within Policy .11 of Exchange Rule 404. With the Strike Interval Proposal, the Exchange would limit intervals between strikes for expiration dates of option series beyond twenty-one days utilizing the below three-tiered table which considers both the share price and average daily volume for the option series.

Tier	Average daily volume	Share price				
		Less than \$25	\$25 to less than \$75	\$75 to less than \$150	\$150 to less than \$500	\$500 or greater
1 .....	Greater than 5,000 .....	\$0.50	\$1.00	\$1.00	\$5.00	\$5.00
2 .....	Greater than 1,000 to 5,000 <sup>19</sup> .....	1.00	1.00	1.00	5.00	10.00
3 .....	0 to 1,000 .....	2.50	5.00	5.00	5.00	10.00

The table indicates the applicable strike intervals and supersedes Policy .02(d) of Rule 404, which currently allows the Exchange to open additional series for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened. As a result of the proposal, Policy .02(d) would not permit an additional series of an equity option to have an expiration date more than 21 days from the listing date to be opened for trading on the Exchange despite the noted circumstances in Policy .02(d) when such additional series may otherwise be added.

The Share Price would be the closing price on the primary market on the last day of the calendar quarter. This value would be used to derive the column from which to apply strike intervals throughout the next calendar quarter. The Average Daily Volume would be the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter. Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on Customer-cleared volume at OCC. For options listed on the first trading day of a given calendar quarter, the Average Daily Volume shall be

calculated using the calendar quarter prior to the last trading calendar quarter.<sup>20</sup> In the event of a corporate action, the Share Price of the surviving company would be utilized. These metrics are intended to align expectations for determining which strike intervals will be utilized. Finally, notwithstanding the limitation imposed by proposed Policy .11 of Exchange Rule 404, this Strike Interval Proposal does not amend the range of strikes that may be listed pursuant to Policy .02 of Exchange Rule 404, regarding the Short Term Option Series Program.

By way of example, if the Share Price for a symbol was \$142 at the end of a calendar quarter, with an Average Daily Volume greater than 5,000, thereby, requiring strike intervals to be listed

<sup>13</sup> See Policy .02(d) of Exchange Rule 404.

<sup>14</sup> See Policy .02(e) of Exchange Rule 404.

<sup>15</sup> See Policy .02(e) of Exchange Rule 404.

<sup>16</sup> See Policy .02(a) of Exchange Rule 404.

<sup>17</sup> See Securities Exchange Act Release No. 91125 (February 12, 2021), 86 FR 10375 (February 19, 2021) (SR-BX-2020-032).

<sup>18</sup> See *id.*

<sup>19</sup> The Exchange notes that while the term “greater than” is not present in this cell in the corresponding BX rule, the Exchange has inserted

it for clarity, otherwise an Average Daily Volume of 1,000 contracts could be read to fall into two categories.

<sup>20</sup> For example, options listed as of January 4, 2021 would be calculated on January 5, 2021 using the Average Daily Volume from July 1, 2020 to September 30, 2020.

\$1.00 apart, that strike interval would apply for the calendar quarter, regardless of whether the Share Price changed to greater than \$150 that calendar quarter. The proposed table within Policy .11 of Exchange Rule 404 takes into account the notional value of a security, as well as Average Daily Volume in the underlying stock, in order to limit the intervals between strikes in the Short Term Options listing program. The Exchange will utilize OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. The OCC Customer-cleared volume represents the majority of options volume executed on the Exchange that, in turn, reflects the demand in the marketplace. The options series listed on the Exchange are intended to meet customer demand by offering an appropriate number of strikes. Non-Customer cleared OCC volume represents the supply side.

The strike intervals for listing strikes in certain options are intended to remove repetitive and unnecessary strike listings across the weekly expiries. The Exchange's Strike Interval Proposal seeks to reduce the number of strikes in the furthest weeklies, where there exist wider markets and therefore lower market quality.

The proposal is intended to remove repetitive and unnecessary strike listings across the weekly expiries. Specifically, the proposal seeks to reduce the number of strikes listed in the furthest weeklies, which generally have wider markets and therefore lower market quality. The proposed strike intervals are intended to widen permissible strike intervals in multiply listed equity options (excluding options on ETFs and ETNs) where there is less volume as measured by the Average Daily Volume tiers. Therefore, the lower the Average Daily Volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, which the Exchange believes makes the finer proposed spread between strike intervals for those symbols appropriate. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals. Today, weeklies are available on 16% of underlying products. The proposal limits the density of strikes listed in series of options, without reducing the classes of options available for trading on the Exchange. Short Term Option Series with an expiration date greater than 21 days from the listing date currently equate to 7.5% of the total number of strikes in the options market,

which equals 81,00 strikes.<sup>21</sup> The Exchange expects this proposal to result in the limitation of approximately 20,000 strikes within the Short Term Option Series, which is approximately 2% of the total strikes in the options markets.<sup>22</sup> The Exchange understands there has been an inconsistency of demand for series of options beyond 21 calendar days.<sup>23</sup> The proposal takes into account customer demand for certain option classes, by considering both the Share Price and the Average Daily Volume, in order to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs,<sup>24</sup> rendering these strikes less useful. The Exchange also notes that the proposal focuses on strikes in multiply listed equity options, and excludes ETFs and ETNs, as the majority of strikes reside within equity options.

Additionally, proposed Policy .11 of Exchange Rule 404 provides that options that are newly eligible for listing pursuant to Exchange Rule 402 and designated to participate in the Short Term Option Series program pursuant to Policy .02 of Rule 404 will not be subject to proposed Policy .11 of Exchange Rule 404 until after the end of the first full calendar quarter following the date the option class was first listed for trading on any options market.<sup>25</sup> As proposed, the Exchange is permitted to list options on newly eligible listing, without having to apply the wider strike intervals, until the end of the first full calendar after such options were listed. The proposal thereby permits the Exchange to add strikes to meet customer demand in a newly listed options class. A newly eligible option class may fluctuate in price after its initial listing; such volatility reflects a natural uncertainty about the security. By deferring the application of the proposed wider strike intervals until

<sup>21</sup> The Exchange notes that this proposal is an initial attempt at reducing strikes and anticipates filing additional proposals to continue reducing strikes. The percentage of underlying products and percentage of and total number of strikes, are approximations and may vary at the time of this filing.

<sup>22</sup> From information drawn from the time period between January 2020 and May 2020. See BX proposal, *supra* note 17.

<sup>23</sup> See BX proposal, *supra* note 17.

<sup>24</sup> For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out-of-the-money.

<sup>25</sup> For example, if an options class became newly eligible for listing pursuant to Exchange Rule 402 on March 1, 2021 (and was actually listed for trading that day), the first full quarterly lookback would be available on July 1, 2021. This option would become subject to the proposed strike intervals on July 2, 2021.

after the end of the first full calendar quarter, additional information on the underlying security will be available to market participants and public investors, as the price of the underlying has an opportunity to settle based on the price discovery that has occurred in the primary market during this deferment period. Also, the Exchange has the ability to list as many strikes as permissible for the Short Term Option Series once the expiry is no more than 21 days. Short Term Option Series that have an expiration date no more than 21 days from the listing date are not subject to the proposed strike intervals, which allows the Exchange to list additional, and potentially narrower, strikes in the event of market volatility or other market events. These metrics are intended to align expectations for determining which strike intervals will be utilized. Finally, proposed Policy .11 of Rule 404 provides that the proposal does not amend the range of strikes that may be listed pursuant to Policy .02, regarding the Short Term Option Series Program.

While the current listing rules permit the Exchange to list a number of weekly strikes on its market, in an effort to encourage Market Makers<sup>26</sup> to deploy capital more efficiently, as well as improve displayed market quality, the Exchange's Strike Interval Proposal reduces the number of listed weekly options. As the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal. Specifically, the Strike Interval Proposal aims to reduce the density of strike intervals that would be listed in later weeks, by creating limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date. The table takes into account customer demand for certain option classes, by considering both the Share Price and the Average Daily Volume, to arrive at the manner which weekly strike intervals may be listed. The intervals for listing strikes in equity options is intended to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading

<sup>26</sup> The term "Market Makers" refers to "Lead Market Makers", "Primary Lead Market Makers" and "Registered Market Makers" collectively. See Exchange Rule 100.

needs,<sup>27</sup> rendering these strikes less useful.

The Strike Interval Proposal is intended to be the first in a series of proposals to limit the number of listed options series listed on MIAX Options and other affiliated markets. The Exchange intends to decrease the overall number of strikes listed on MIAX exchanges in a methodical fashion, so that it may monitor progress and feedback from its membership. While limiting the intervals between listed strikes is the goal of this rule change, the Exchange's Strike Interval Proposal is intended to balance that goal with the needs of market participants. The Exchange believes that various strike intervals continue to offer market participants the ability to select the appropriate strike interval to meet the market participant's investment objective.

#### Implementation

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 90 days following the operative date of the proposed rule. The implementation date will be no later than 90 days following the issuance of the Regulatory Circular. The Exchange will issue a notice to its Members<sup>28</sup> whenever the Exchange is the first exchange to list an eligible Short Term Option Series pursuant to Policy .11 of Exchange Rule 404.<sup>29</sup>

#### 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>30</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>31</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing

information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Strike Proposal seeks to limit the intervals between the strikes listed in the Short Term Options Series program that have an expiration date more than twenty-one days. While the current listing rules permit the Exchange to list a number of weekly strikes on its market, the Exchange's Strike Interval Proposal removes impediments to and perfects the mechanism of a free and open market and a national market system by encouraging Market Makers to deploy capital more efficiently and improving market quality overall on the Exchange through limiting the intervals between the strikes when applying the strike interval table to multiply listed equity options that have an expiration date more than twenty-one days from the listing date. Also, as the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal. Amending the Exchange's listing rules to limit the intervals between strikes for multiply listed equity options that have an expiration date more than twenty-one days causes less disruption in the market as the majority of the volume traded in weekly options exists in options series which have an expiration date of twenty-one days or less. The Exchange's Strike Interval Proposal curtails the number of strike intervals listed in series of options without reducing the number of classes of options available for trading on the Exchange.

The Strike Interval Program takes into account customer demand for certain option classes by considering both the Share Price and the Average Daily Volume in the underlying security to arrive at the manner in which weekly strike intervals would be listed in the later weeks for each multiply listed equity options class. The Exchange utilizes OCC Customer-cleared volume, as customer volume is an appropriate proxy for demand. The OCC Customer-cleared volume represents the majority of options volume executed on the Exchange that, in turn, reflects the demands in the marketplace. The options series listed on the Exchange is intended to meet customer demand by offering an appropriate number of strikes. Non-Customer cleared OCC volume represents the supply side.

The Strike Interval Proposal for listing strikes in certain multiply listed equity options is intended to remove certain strikes where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs that renders the strikes less useful and thereby protects investors and the general public by removing an abundance of unnecessary choices for an options series, while also improving market quality. The Exchange's Strike Interval Proposal seeks to reduce the number of strikes in the furthest weeklies, where there exist wider markets, and, therefore, lower market quality. The implementation of the proposed table is intended to spread strike intervals in multiply listed equity options, where there is less volume that is measured by the average daily volume tiers. Therefore, the lower the average daily volume, the greater the proposed spread between strike intervals. Options classes with higher volume contain the most liquid symbols and strikes, therefore the finer the proposed spread between strike intervals. Additionally, lower-priced shares have finer strike intervals than higher-priced shares when comparing the proposed spread between strike intervals.

Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on OCC Customer-cleared volume. Utilizing the second trading day allows the Exchange to accumulate data regarding OCC Customer-cleared volume from the entire prior quarter. Beginning on the second trading day would allow trades executed on the last day of the previous calendar quarter to have settled<sup>32</sup> and be accounted for in the calculation of Average Daily Volume. Utilizing the previous three months is appropriate because this time period would help reduce the impact of unusual trading activity as a result of unique market events, such as a corporate action (*i.e.*, it would result in a more reliable measure of average daily trading volume than would a shorter period).

Today, the Exchange requires Market Makers to quote a certain amount of time in the trading day in their assigned due options series to maintain liquidity in the market.<sup>33</sup> With an increasing number of strikes due to tighter intervals being listed across options

<sup>27</sup> For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out-of-the-money.

<sup>28</sup> The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

<sup>29</sup> When the Exchange is the first exchange to list an option class under Policy .11 of Exchange Rule 404 the Exchange shall provide a notice to its Members regarding the Short Term Option Series to be listed. Such notice will include for each eligible option class: The closing price of the underlying, the Average Daily Volume of the option class; and the eligible strike category (per the proposed table) in which the eligible option class falls under as a result of the closing price and the Average Daily Volume.

<sup>30</sup> 15 U.S.C. 78f(b).

<sup>31</sup> 15 U.S.C. 78f(b)(5).

<sup>32</sup> Options contracts settle one business day after trade date. Strike listing determinations are made the day prior to the start of trading in each series.

<sup>33</sup> See Exchange Rule 604(e)(1); 604(e)(2); and 604(e)(3).

exchanges, Market Makers must expend their capital to ensure that they have the appropriate infrastructure to meet their quoting obligations on all options markets in which they are assigned in options series. The Exchange believes that this Strike Interval Proposal would limit the intervals between strikes listed on the Exchange and thereby allow Market Makers to expend their capital in the options market in a more efficient manner that removes impediments to and perfects the mechanism of a free and open market and a national market system. The Exchange also believes that this Strike Interval Proposal would improve overall market quality on the Exchange for the protection of investors and the general public by limiting the intervals between strikes when applying the strike interval table to multiply listed equity options which have an expiration date more than twenty-one days from the listing date.

This Strike Interval Proposal is intended to be the first in a series of proposals to limit the number of listed option series listed on the Exchange and other affiliated markets. The Exchange intends to decrease the overall number of strikes listed on the MIAX exchanges in a methodical fashion in order that it may monitor progress and feedback from its membership. While limiting the intervals between strikes listed is the goal of this rule change, the Exchange's Strike Interval Proposal is intended to balance that goal with the needs of market participants. The Exchange believes that varied strike intervals continue to offer market participants the ability to select the appropriate strike interval to meet that market participant's investment objective.

The Exchange notes that its proposal is substantively identical to the strike interval proposal recently submitted by the Nasdaq BX exchange and approved by the Commission.<sup>34</sup> The Exchange notes that it has reviewed the data presented in the BX proposal and agrees with the analysis of the data as presented in the BX proposal. The Exchange believes the varied strike intervals will continue to offer market participants the ability to select the appropriate strike interval to meet that market participants' investment objectives.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Strike

Interval Proposal limits the number of Short Term Options Series strike intervals available for quoting and trading on the Exchange for all Exchange participants. While the current listing rules permit the Exchange to list a number of weekly strikes on its market, in an effort to encourage Market Makers to deploy capital more efficiently, as well as improve displayed market quality, the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, without reducing the number of series or classes of options available for trading on the Exchange. As the Exchange's Strike Interval Proposal seeks to reduce the number of weekly options that would be listed on its market in later weeks, Market Makers would be required to quote in fewer weekly strikes as a result of the Strike Interval Proposal.

The Exchange's Strike Interval Proposal, which is intended to decrease the overall number of strikes listed on the Exchange, does not impose an undue burden on intra-market competition as all Participants may only transact options in the strike intervals listed for trading on the Exchange. While limiting the intervals of strikes listed on the Exchange is the goal of this Strike Interval Proposal, the goal continues to balance the needs of market participants by continuing to offer a number of strikes to meet a market participant's investment objective.

The Exchange's Strike Interval Proposal does not impose an undue burden on inter-market competition as this Strike Interval Proposal does not impact the listings available at another self-regulatory organization. In fact, the Exchange is proposing to list a smaller amount of weekly equity options in an effort to curtail the increasing number of strikes that are required to be quoted by market makers in the options industry. Other options markets may choose to replicate the Exchange's Strike Interval Proposal and, thereby, further decrease the overall number of strikes within the options industry.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section

19(b)(3)(A)(iii)<sup>35</sup> of the Act and Rule 19b-4(f)(6) thereunder.<sup>36</sup> Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>37</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIAX-2021-12 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2021-12. 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

<sup>35</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>36</sup> 17 CFR 240.19b-4(f)(6).

<sup>37</sup> In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>34</sup> See *supra* note 17.

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2021-12, and should be submitted on or before June 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>38</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-09884 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91775; File No. SR-ICEEU-2021-012]

### Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the ICEEU Transition of the Rates Used for Calculating Price Alignment Amounts

May 5, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 29, 2021, ICE Clear Europe Limited ("ICE Clear Europe" or the "Clearing House") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. ICC filed the proposed

rule change pursuant Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(1) thereunder<sup>4</sup> such that the proposed rule change was immediately effective upon filing with the Commission. 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

ICE Clear Europe Limited ("ICEU") proposes to change the interest rates used for computing CDS Price Alignment Amounts. These revisions do not require any changes to the ICEU Clearing Rules (the "Rules") or CDS Procedures (the "CDS Procedures").<sup>5</sup>

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### (a) Purpose

ICEU proposes to change the interest rates used for computing CDS Price Alignment Amounts on CDS Notional Margin Balances under paragraph 3 of the CDS Procedures. The target date of the transition is Monday, June 14, 2021, subject to any regulatory review or approval process. On the transition date, ICEU would begin calculating price alignment amounts for Euro ("EUR") denominated instruments using the Euro Short-Term Rate ("€STR") rather than the Euro Overnight Index Average ("EONIA") and for U.S. Dollar ("USD") denominated instruments using the Secured Overnight Financing Rate ("SOFR") rather than the Effective Federal Funds Rate ("EFFR"). Such changes do not require any revisions to the ICEU Rules or CDS Procedures or other written policies and procedures. In accordance with section 3.1 of the

ICEU CDS Procedures, the CDS Price Alignment Amount is based upon the applicable overnight rate notified by the Clearing House from time to time to CDS Clearing Members for each of the currencies in which Mark-to-Market Margin is paid.

The proposed changes are in response to requests by industry participants and follow similar changes for other cleared swap products. The European Central Bank's ("ECB") working group on EUR risk-free rates recommended €STR as the EUR risk-free rate and the replacement of EONIA in September 2018.<sup>6</sup> The ECB began publishing €STR in October 2019 and the working group is assisting the market in transitioning to €STR before EONIA is discontinued on January 3, 2022.<sup>7</sup> The Alternative Reference Rates Committee ("ARRC") was convened by the Federal Reserve Board and the Federal Reserve Bank of New York and identified SOFR as the rate representing best practice for use in certain new USD derivatives and other financial contracts in 2017.<sup>8</sup> The ARRC published a transition plan including specific steps and timelines to encourage the adoption of SOFR.<sup>9</sup>

Feedback from market participants has indicated a desire for one-time adjustment payments to or from the Clearing Member ("CM"), as appropriate, to account for the reasonably expected valuation changes for Contracts associated with the use of the new interest rates. ICEU proposes to calculate such one-time adjustment payments to or from the CM, as appropriate, and to make the corresponding payments to and collections from CMs.

##### Proposed Transition Process

On the transition date, ICEU proposes to begin using the new rates for calculation of price alignment amounts. CDS denominated in EUR will stop using EONIA and will start using €STR, and CDS denominated in USD will stop using EFFR and will start using SOFR. The target transition date at the time of this filing is Monday, June 14, 2021, but may be delayed by ICEU. Any revised transition date will fall on a Monday to maintain the proposed operational process and will be publicized by ICEU. The €STR and SOFR rates available on

<sup>6</sup> Additional information on the working group and the transition to €STR is available at: [https://www.ecb.europa.eu/paym/interest\\_rate\\_benchmarks/WG\\_euro\\_risk-free\\_rates/html/index.en.html](https://www.ecb.europa.eu/paym/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html).

<sup>7</sup> *Id.*

<sup>8</sup> Additional information on the ARRC and transition to SOFR is available at: <https://www.newyorkfed.org/arrc>.

<sup>9</sup> *Id.*

<sup>38</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> Capitalized terms used but not defined herein have the meanings specified in the Rules or the CDS Procedures.



Monday, June 14, 2021 will be applied to CDS Notional Margin Balances of Friday, June 11, 2021 for the determination of the first day of price alignment amounts using the new rates.

In connection with the transition of the rates, ICEU proposes to calculate one-time adjustment amounts and pay or collect, as appropriate, such amounts to or from CMs to account for the reasonably expected valuation changes associated with the use of the new interest rates. In calculating the adjustment amounts, ICEU will use the following methodology that has been subject to substantial discussion and feedback from market participants.

#### One-Time Adjustment Methodology

The proposed one-time adjustment methodology is set out as follows:

- ICEU will obtain implied hazard term structures by using the end-of-day (“EOD”) settlement values and the near EOD discount rate term structure for the rate being replaced (EFFR for USD denominated and EONIA for EUR denominated products) in the ISDA CDS standard model (fair value).

- For single name Contracts, the EOD prices of the nine benchmark tenors will be used to create the corresponding implied hazard rate term structure. Standard industry recovery rates will also be used except for distressed names where the standard recovery rate cannot result in a consistent hazard rate term structure. In such case, a recovery rate will be used that is close to the standard recovery rate that can result in a consistent hazard rate term structure.

- For index Contracts, the implied hazard rates for the tenors available for clearing will be used to create an implied hazard rate term structure. Based on feedback requesting that ICEU include the 3-year tenor of iTraxx Crossover and CDX High Yield index in determining the hazard rate term structure, ICEU has been collecting daily prices for these instruments even though they are not clearing eligible. ICEU will review the reasonability of the price collection with its CDS Product Risk Committee near the transition date to determine whether to use these tenors in determining the hazard rate term structures for iTraxx Crossover and CDX High Yield indexes.

- ICEU will calculate an adjusted EOD valuation using the implied hazard rate term structure and the replacement discount rate term structure (e.g., SOFR for USD and €STR for EUR denominated products).

- The EOD valuation less the adjusted EOD valuation will be the adjustment amount.

- EOD London snapshots of EONIA and €STER interest rate curves and EOD New York snapshots of EFFR and SOFR interest rate curves published by ICE Data Services will be used for the discount rate term structures.<sup>10</sup>

#### Operational Process

ICEU has defined the operational process for the one-time adjustment payments and corresponding collections. ICEU will include the ad-hoc adjustments in CM EOD processing on Monday, June 14, 2021, which will be netted with other cash payments to determine Monday, June 14, 2021 EOD CM margin calls to be paid Tuesday, June 15, 2021. ICEU will provide CMs and clients with position level adjustment details after EOD Friday, June 11, 2021 and prior to Monday, June 14, 2021. ICEU will allow CMs to allocate adjustments at the level of individual house or client accounts. The proposed approach is intended to enable clients to reconcile adjustments they may receive from their CMs. Further, ICEU will provide CMs and clients the opportunity to review and consume relevant files as part of pre-transition simulations. One simulation was completed for March 26, 2021, and ICEU plans to hold future simulations closer to the transition date.

#### Market Participant Engagement and Outreach

The proposed transition has been discussed and coordinated by ICEU with market participants, as well as with ICE Clear Credit, to achieve an orderly and efficient transition to the new rates. ICEU has sought feedback from and engaged with market participants to determine the proposed approach throughout 2020 and 2021, including through the CDS Product Risk Committee and the ISDA Credit Steering Committee. In relation to CDS valuations, feedback has indicated a desire for one-time adjustment payments to account for the reasonably expected valuation changes associated with the use of the new interest rates. The proposed one-time adjustment methodology, among other details, has been subject to substantial discussion and feedback from market participants.

As discussed below, ICEU has issued a public Consultation on the proposed

<sup>10</sup> The proposed methodology, which has been subject to substantial discussion and feedback from market participants, has also been coordinated with ICE Clear Credit LLC (“ICE Clear Credit”). Based on feedback that the clearing houses should seek to achieve congruent adjustment amounts for positions at ICEU and ICE Clear Credit, EOD valuations for North American products will be taken from ICE Clear Credit’s EOD process during its North American pricing window.

approach on April 8, 2021 via a circular<sup>11</sup> and made available on its website further details on the proposed transition.<sup>12</sup>

#### (b) Statutory Basis

ICEU believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>13</sup> and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.<sup>14</sup> In particular, Section 17A(b)(3)(F) of the Act<sup>15</sup> requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICEU, the safeguarding of securities and funds in the custody or control of ICEU or for which it is responsible, and the protection of investors and the public interest. As described above, the proposed rule change would transition the interest rates used for computing price alignment amounts and is in response to requests by industry participants in connection with the broader transition in the derivatives markets to the use of SOFR and €STR in lieu of existing interest rate benchmarks. The proposed transition would include one-time adjustment payments to be made to or from CMs to account for the reasonably expected valuation changes associated with the use of the new rates. The proposed transition has been discussed and coordinated by ICEU with market participants to achieve an orderly and efficient transition to the new rates. In ICEU’s view, the proposed approach reduces uncertainty in respect of the transition and the potential impact of the interest rate benchmark reforms and reduces the potential for market disruption given the industry outreach and operational testing done by ICEU. As such, the proposed rule change is consistent with the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of ICEU or for which it is responsible, and the protection of

<sup>11</sup> ICEU Circular 2021/055 on the Proposed change to Mark-to-Market Margin Interest Rates, dated April 8, 2021, is available at: [https://www.theice.com/publicdocs/clear\\_europe/circulars/C21055.pdf](https://www.theice.com/publicdocs/clear_europe/circulars/C21055.pdf).

<sup>12</sup> A detailed presentation on the proposed transition is in the presentation located here: [https://www.theice.com/publicdocs/ice/notifications/adhoc/110000348161/ICE\\_CDS\\_Clearing\\_PriceAlignmentTransition\\_20210324\\_v1.3\\_final.pdf](https://www.theice.com/publicdocs/ice/notifications/adhoc/110000348161/ICE_CDS_Clearing_PriceAlignmentTransition_20210324_v1.3_final.pdf).

<sup>13</sup> 15 U.S.C. 78q–1.

<sup>14</sup> 17 CFR 240.17Ad–22.

<sup>15</sup> 15 U.S.C. 78q–1(b)(3)(F).

investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.<sup>16</sup>

The amendments would also satisfy relevant requirements of Rule 17Ad-22.<sup>17</sup> Rule 17Ad-22(e)(2)(i), (iii) and (v)<sup>18</sup> requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent; support the public interest requirements of Section 17A of the Act<sup>19</sup> applicable to clearing agencies, and the objectives of owners and participants; and specify clear and direct lines of responsibility. The proposed changes are in response to requests by industry participants. Such changes to transition the rates used for computing price alignment amounts on CDS Notional Margin Balances, including one-time adjustment payments to account for the reasonably expected valuation changes associated with the use of the new interest rates, were determined in accordance with ICEU's governance process. ICEU believes that the proposed approach reduces uncertainty in respect of the transition and the potential impact of the benchmark reforms and reduces the potential for market disruption given the industry outreach and operational testing done by ICEU. ICEU's governance process allows multiple stakeholders to provide input and feedback regarding such proposed rule changes. ICEU has sought feedback from and engaged with market participants on the transition and the proposed approach is a product of the aforementioned consultation and governance processes. As such, ICEU believes that the proposed rule change is consistent with the requirements of Rule 17Ad-22(e)(2)(i), (iii) and (v).<sup>20</sup>

Rule 17Ad-22(e)(4)(ii)<sup>21</sup> requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would

potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. The proposed rule change does not require any changes to ICEU's Rules or written policies and procedures, including ICEU's risk management methodology, model, or practices. Moreover, the proposed transition, including the approach and timing, has been discussed and coordinated by ICEU with market participants to promote an orderly and efficient transition to the new rates. ICEU will continue to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad-22(e)(4)(ii).<sup>22</sup>

Rule 17Ad-22(e)(17)<sup>23</sup> requires, in relevant part, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage its operational risks by (i) identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls; and (ii) ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. ICEU has defined the operational process and considerations for the proposed transition, including the one-time adjustment payments. ICEU has publicized its process and planned for a pre-transition simulations to promote preparedness among itself and market participants. Such actions enhance ICEU's ability to identify relevant sources of operational risk and mitigate their impact in respect of the proposed transition and to ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity. ICEU believes that the proposed transition is appropriately designed to reduce operational complexity and sufficiently coordinated among ICEU and market participants to achieve an orderly and efficient transition to the new rates. The proposed rule change is thus consistent with the requirements of Rule 17Ad-22(e)(17).<sup>24</sup>

#### *(B) Clearing Agency's Statement on Burden on Competition*

ICEU does not believe the proposed rule change would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The proposed

changes are in response to requests by industry participants in the context of the broader transition in interest rate benchmark rates and follow similar changes for other cleared swap products. Such changes are designed to transition the interest rates used for computing price alignment amounts on CDS Notional Margin Balances and include one-time adjustment payments to account for the reasonably expected valuation changes associated with the use of the new interest rates. ICEU has sought feedback from and engaged with market participants on the transition and the proposed approach is a product of the aforementioned consultation and governance processes. The proposed rule change will apply uniformly across all market participants. ICEU does not believe the changes would adversely affect the ability of market participants to continue to clear contracts. ICEU also does not believe the changes would adversely affect the cost of clearing or otherwise limit market participants' choices for selecting clearing services. Therefore, ICEU does not believe the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

#### *(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>25</sup> and paragraph (f) of Rule 19b-4<sup>26</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

<sup>16</sup> *Id.*

<sup>17</sup> 17 CFR 240.17Ad-22.

<sup>18</sup> 17 CFR 240.17Ad-22(e)(2)(i), (iii) and (v).

<sup>19</sup> 15 U.S.C. 78q-1.

<sup>20</sup> 17 CFR 240.17Ad-22(e)(2)(i), (iii) and (v).

<sup>21</sup> 17 CFR 240.17Ad-22(e)(4)(ii).

<sup>22</sup> *Id.*

<sup>23</sup> 17 CFR 240.17Ad-22(e)(17)(i)-(ii).

<sup>24</sup> *Id.*

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f)(1).

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](mailto:rule-comments@sec.gov). Please include File Number SR-ICEEU-2021-012 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-ICEEU-2021-012. 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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at <https://www.theice.com/clear-europe/regulation>.

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-ICEEU-2021-012 and should be submitted on or before June 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-09883 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[SEC File No. 270-663, OMB Control No. 3235-0724]**

### **Proposed Collection; Comment Request**

*Upon Written Request Copies Available From:* U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

#### *Extension:*

Supplier Diversity Business Management System

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for approval.

The Commission is required under Section 342 of the Dodd Frank Wall Street and Reform Act to develop standards and processes for ensuring the fair inclusion of minority-owned and women-owned businesses in all of the Commission's business activities. To help implement this requirement, the Office of Minority and Women Inclusion (OMWI) developed and maintains an electronic Supplier Diversity Business Management System (SDBMS) to collect up-to-date business information and capabilities statements from diverse suppliers interested in doing business with the Commission. This information allows the Commission to update and more effectively manage its current internal repository. It also allows the Commission to measure the effectiveness of its technical assistance and outreach efforts, and target areas where additional program efforts are necessary.

The Commission invites comment on SDBMS. Information is collected in SDBMS via web-based, e-filed, dynamic form-based technology. The company point of contact completes a profile

consisting of basic contact data and information on the capabilities of the business. The profile includes a series of questions, some of which are based on the data that the individual enters. Drop-down lists are included where appropriate to increase ease of use.

The information collection is voluntary. There are no costs associated with this collection.

The public interface to SDBMS is available via a web-link provided by the agency.

Estimated number of annual responses = 300

Estimated annual reporting burden = 150 hours (30 minutes per submission)

Other than a temporary dip in the number of respondents due to the COVID-19 pandemic, the estimated number of respondents overall remains the same at 300 per year, based on the actual response rate prior to the pandemic. As such, the total burden estimate also remains the same at 150 hours.

Written comments are invited on: (a) Whether this 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 imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington DC, 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: May 5, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-09900 Filed 5-10-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>27</sup> 17 CFR 200.30-3(a)(12).

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #16934 and #16935; KENTUCKY Disaster Number KY-00085]

**Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the Commonwealth of KENTUCKY**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of KENTUCKY (FEMA-4595-DR), dated 04/23/2021. Incident: Severe Storms, Flooding, Landslides, and Mudslides. Incident Period: 02/27/2021 through 03/14/2021.

**DATES:** Issued on 05/05/2021.

*Physical Loan Application Deadline Date:* 06/22/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/24/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President’s major disaster declaration for Private Non-Profit organizations in the Commonwealth of KENTUCKY, dated 04/23/2021, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:*

- Bell, Calloway, Clark, Clay,
- Edmonson, Estill, Graves, Harlan,
- Leslie, Letcher, Menifee, Owsley,
- Perry, Pulaski, Union, Whitley.

All other information in the original declaration remains unchanged. (Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2021-09949 Filed 5-10-21; 8:45 am]

**BILLING CODE 8026-03-P**

**SMALL BUSINESS ADMINISTRATION**

[License No. 01/01-0433]

**Gemini Investor VI, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest**

Notice is hereby given that Gemini Investor VI, L.P. 20 William Street, Suite 250, Wellesley, MA 02481, a Federal Licensee under the Small Business Investment Act of 1958, as amended (“the Act”), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (“SBA”) Rules and Regulations (13 CFR 107.730). Gemini Investor VI, L.P. proposes to provide equity security financing to Hemi Purchaser, LLD Holding 1911 11th Street, Suite 400, Boulder, CO 80301.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Gemini Investor IV, L.P., an Associate of Gemini Investor VI, L.P. own more than ten percent of the preceding entity Vision Appraisal Technology Holdings, LLC and therefore this transaction is considered *Financing an Associate* requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

**Thomas Morris,**

*Acting Associate Administrator Director, Office of Liquidation, Office of Investment and Innovation.*

[FR Doc. 2021-09877 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #16968 and #16969; GEORGIA Disaster Number GA-00125]

**Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Georgia**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of GEORGIA (FEMA-4600-DR), dated 05/05/2021.

*Incident:* Severe Storms and Tornadoes.

*Incident Period:* 03/25/2021 through 03/26/2021.

**DATES:** Issued on 05/05/2021.

*Physical Loan Application Deadline Date:* 07/06/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/07/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President’s major disaster declaration on 05/05/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:*

- Coweta, Fannin, Gilmer, Heard,
- Lumpkin, Pickens, Rabun, White.

The Interest Rates are:

<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for physical damage is 16968 C and for economic injury is 16969 0.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2021-09951 Filed 5-10-21; 8:45 am]

**BILLING CODE 8026-03-P**

**DEPARTMENT OF STATE****[Public Notice: 11423]****Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Nikolai Astrup: Visions of Norway” Exhibition**

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Nikolai Astrup: Visions of Norway” at the Sterling and Francine Clark Art Institute, Williamstown, Massachusetts, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

**Matthew R. Lussenhop,**

*Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2021–09878 Filed 5–10–21; 8:45 am]

**BILLING CODE 4710–05–P**

**SURFACE TRANSPORTATION BOARD****[Docket No. AB 295 (Sub-No. 10X)]****Indiana Rail Road Company—Abandonment Exemption—in Vigo County, Ind.**

Indiana Rail Road Company (INDR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 5.92-mile rail line known

as the Riley Spur, extending between milepost 6.48 and the end of the track at milepost 12.4 (near Riley) in Vigo County, Ind. (the Line). The Line traverses U.S. Postal Service Zip Code 47802 and has one station, Chinook (FSAC 40956/OPSL 21009), which INRD states can be closed.

INDR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (notice of environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,<sup>1</sup> the exemption will be effective on June 10, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 21, 2021.<sup>3</sup> Petitions to reopen or requests for public use conditions under

<sup>1</sup> Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.*, subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board’s Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption’s effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption’s effective date.

<sup>3</sup> Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

49 CFR 1152.28 must be filed by June 1, 2021.

All pleadings, referring to Docket No. AB 295 (Sub-No. 10X), should be filed with the Surface Transportation Board via e-filing on the Board’s website. In addition, a copy of each pleading must be served on INDR’s representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

INDR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by May 14, 2021. The Draft EA will be available to interested persons on the Board’s website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by INDR’s filing of a notice of consummation by May 11, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: May 5, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. 2021–09959 Filed 5–10–21; 8:45 am]

**BILLING CODE 4915–01–P**

**TENNESSEE VALLEY AUTHORITY****Environmental Impact Statement for Cumberland Fossil Plant Retirement**

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Notice of intent.

**SUMMARY:** The Tennessee Valley Authority (TVA) intends to prepare an

Environmental Impact Statement (EIS) to assess the impacts associated with the proposed retirement of the two coal-fired units at the Cumberland Fossil Plant (CUF) and the construction and operation of facilities to replace part of the retired generation. TVA will use the EIS process to elicit and prioritize the values and concerns of stakeholders; formulate, evaluate and compare alternatives; provide opportunities for public review and comment; and ensure that TVA's evaluation of potential retirement and replacement energy generation reflects a full range of stakeholder input. Public comment is invited concerning the scope of the EIS, alternatives being considered, and environmental issues that should be addressed as a part of this EIS. TVA is also requesting data, information and analysis relevant to the proposed action from the public; affected Federal, State, tribal, and local governments, agencies, and offices; the scientific community; industry; or any other interested party.

**DATES:** To ensure consideration, comments on the scope and environmental issues must be postmarked, emailed or submitted online no later than June 10, 2021. To facilitate the scoping process, TVA will hold a public scoping meeting; see <http://www.tva.gov/nepa> for more information on the meeting.

**ADDRESSES:** Written comments should be sent to Ashley Pilakowski, NEPA Compliance Specialist, 400 West Summit Hill Dr., WT 11B, Knoxville, TN 37902-1499. Comments may also be submitted online at: [www.tva.gov/nepa](http://www.tva.gov/nepa), or by email at [nepa@tva.gov](mailto:nepa@tva.gov). Please note that, due to current TVA requirements for many employees to work remotely, TVA recommends the public submit comments electronically to ensure their timely review and consideration.

**FOR FURTHER INFORMATION CONTACT:** Please contact Ashley Pilakowski at the address above, by phone at (865) 632-2256 or email at [aapilakowski@tva.gov](mailto:aapilakowski@tva.gov).

**SUPPLEMENTARY INFORMATION:** This notice is provided in accordance with the regulations promulgated by Council on Environmental Quality at 40 CFR parts 1500 to 1508 (84 FR 43304, July 16, 2020) and TVA's procedures implementing the National Environmental Policy Act at 18 CFR part 1318. TVA is an agency and instrumentality of the United States, established by an act of Congress in 1933, to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the proper use and conservation of the region's natural resources. One component of this mission is the generation,

transmission, and sale of reliable and affordable electric energy.

### Background

In June 2019, TVA published the 2019 Integrated Resource Plan (IRP), which was developed with input from stakeholder groups and the general public. The 2019 IRP evaluated six scenarios (plausible futures) and five strategies (potential TVA responses to those futures) and identified a range of potential resource additions and retirements throughout the TVA power service area, which encompasses approximately 80,000 square miles covering most of Tennessee and parts of Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia. The target supply mix adopted by the TVA Board through the 2019 IRP included the potential retirement of 2,200 MW of coal-fired generation by 2038. The IRP acknowledged continued operational challenges for the aging coal fleet and included a recommendation to conduct end-of-life evaluations during the term of the IRP to determine whether retirements greater than 2,200 MW would be appropriate.

Following the publication of the IRP, TVA began conducting these evaluations to inform long-term planning. TVA's recent evaluation confirms that the aging coal fleet is among the oldest in the nation and is experiencing deterioration of material condition and performance challenges. The performance challenges are projected to increase because of the coal fleet's advancing age and the difficulty of adapting the fleet's generation within the changing generation profile; and, in general, because the coal fleet is contributing to environmental, economic, and reliability risks.

CUF is located in Cumberland City, Stewart County, Tennessee, approximately 22 miles southwest of Clarksville. The plant is on a large reservation of approximately 2,388 acres located at the confluence of Wells Creek and the south bank of the Cumberland River. Built between 1968 and 1973, CUF is the largest plant in the TVA coal fleet. The two-unit, coal-fired steam-generating plant has a summer net capability of 2,470 megawatts (MW). CUF is 15 to 20 years younger than TVA's other coal plants, but frequent cycling of the large super-critical units, a recent change in the method of plant operation for which the plant was not originally designed, presents reliability challenges that are difficult to anticipate and very expensive to mitigate. Based on this analysis, TVA has developed planning assumptions for CUF retirement. TVA proposes to retire one

CUF unit as early as 2026 but no later than 2030, and the second unit as early as 2028 but no later than 2033, dependent on internal and external factors that could affect bringing replacement generation online.

The Cumberland EIS assesses the impact of retiring both CUF units and of replacing the generation of one of those units, as discussed in the Alternatives section below. To recover the generation capacity lost from retirement of one CUF unit, TVA is proposing the addition of approximately 1,450 MW of replacement generation. To maintain adequate reserves on the TVA system, this 1,450 MW replacement generation would need to be in commercial operation prior to retirement of the first CUF unit. Replacement generation for the second retired CUF unit would likely consist of some combination of gas, solar, and storage, but the planning for that generation can be deferred to allow more time to assess the specific types and locations of that generation. Additional tiered NEPA analysis will be completed as these future generation needs are identified.

### Alternatives

TVA anticipates that the scope of the EIS will include various alternatives in addition to the no action alternative (continuing to operate CUF). TVA plans to consider three action alternatives in the EIS: (A) Retirement of CUF and construction and operation of a Combined Cycle Combustion Turbine (CC) Gas Plant at the same site; (B) Retirement of CUF and construction and operation of Simple Cycle Combustion Turbine (CT) Gas Plants at alternate locations; (C) Retirement of CUF and construction and operation of Solar and Storage Facilities, primarily at alternate locations. Whether these or other alternatives are reasonable warranting further consideration under NEPA would be determined in the course of preparing the EIS. Connected actions, such as the natural gas pipeline and transmission upgrades, will also be considered in this assessment.

### Proposed Issues To Be Addressed

The EIS will address the effects of each alternative on the environment, including

- emissions of greenhouse gases,
- fuel consumption,
- air quality,
- water quality and quantity,
- waste generation and disposal,
- land use,
- ecological,
- cultural resources,
- transportation,
- visual and noise,

- socioeconomic impacts and environmental justice.

The EIS will include discussion and review of any proposed natural gas pipeline(s) that would be a necessary component of a new proposed CC or CT plants under Alternatives A or B. Currently under Alternative A, TVA is considering replacing generation at the CUF location which would require an approximate 30 mile natural gas pipeline to bring gas supply to the CUF reservation. Under Alternative B, since TVA is considering replacement generation at locations with existing transmission infrastructure and an adequate supply of natural gas, no further pipeline construction would be needed other than the lateral lines necessary to make the connection to the facility itself. The construction of the natural gas pipeline(s) would likely be subject to Federal Energy Regulatory Commission (FERC) jurisdiction and additional review will be undertaken by FERC in accordance with its own NEPA procedures. The proposed action may also require issuance of an Individual or Nationwide Permit under Section 404 of the Clean Water Act; Section 401 Water Quality Certification; conformance with Executive Orders on Environmental Justice (12898), Wetlands (11990), Floodplain Management (11988), Migratory Birds (13186), and Invasive Species (13112); and compliance with Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and other applicable Local, Federal and State regulations.

### Scoping Process

Scoping, which is integral to the process for implementing NEPA, provides an early and open process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided.

TVA invites members of the public as well as Federal, state, and local agencies and federally recognized Indian tribes to comment on the scope of the EIS. Information about this project is available on the TVA web page at [www.tva.com/nepa](http://www.tva.com/nepa), including a link to a virtual public meeting room and an online public comment page. Comments on the scope of this EIS should be submitted no later than the date given under the **DATES** section of this notice. Any comments received, including names and addresses, will become part of the administrative record and will be available for public inspection.

After consideration of the comments received during this scoping period, TVA will summarize public and agency comments, identify the issues and alternatives to be addressed in the draft EIS, and identify the schedule for completing the EIS process. Following analysis of the issues, TVA will prepare a draft EIS for public review and comment. Notice of availability of the draft EIS will be published by the U.S. Environmental Protection Agency in the **Federal Register**. TVA will solicit written comments on the draft EIS and also hold a public open house, which may be virtual, for this purpose. TVA expects to release the draft EIS in Spring of 2022. TVA anticipates issuing the final EIS in Fall of 2022 and a record of decision at least 30 days after its release.

**Rebecca Tolene,**

*Vice President, Environment.*

[FR Doc. 2021-09945 Filed 5-10-21; 8:45 am]

**BILLING CODE 8120-08-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Notice of Opportunity for Public Comment on Release and Sale of Land Acquired With Airport Improvement Program (AIP) Assistance at Evergreen Municipal Airport, Evergreen, Alabama**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Request for public comments.

**SUMMARY:** Notice is being given that the FAA is considering a request from the City of Evergreen, Alabama to sell 1.76± acres of airport property, previously purchased through an AIP grant for the runway protection zone, to be used by the state highway department as right-of-way for the widening of US Highway 84.

**DATES:** Comments must be received on or before June 10, 2021.

**ADDRESSES:** Comments on this notice may be mailed or delivered in triplicate to the FAA to the following address: Jackson Airports District Office Attn: Graham Coffelt, Program Manager, 100 West Cross Street, Suite B Jackson, MS 39208-2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to City of Evergreen, Alabama, Attn: Honorable Stanley B. Stallworth, Mayor, City of Evergreen, 355 East Front Street, Evergreen AL 36401.

**FOR FURTHER INFORMATION CONTACT:** Graham Coffelt, Program Manager, Jackson Airports District Office, 100

West Cross Street, Suite B, Jackson, MS 39208-2307, (601) 664-9886. The land release request may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA is reviewing a request by the City of Evergreen Alabama to release approximately 1.76 acres, more or less of airport property at Evergreen Municipal Airport (GZH) under the provisions of Title 49, U.S.C. Section 47107(h)(2). The sale of the subject property will result in the land at GZH being released from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. The FAA determined that the request to release property at GZH submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the release of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice. The 1.76 acres of property is located within the runway protection zone and the FAA has concurred that the sponsor has done a sufficient level of analysis per guidance on land use in the runway protection zone. A deed restriction or easement for obstruction clearing will remain on the 1.76 acres. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project at GZH.

**Rans D. Black,**

*Manager, Jackson Airports District Office, Southern Region.*

[FR Doc. 2021-09952 Filed 5-10-21; 8:45 am]

**BILLING CODE 4910-13-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### **Environmental Impact Statement; Heber Valley Corridor, Wasatch County, Utah**

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (USDOT).

**ACTION:** Notice of intent to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** FHWA, on behalf of the Utah Department of Transportation (UDOT), is issuing this notice to advise the public that an EIS will be prepared for proposed transportation improvements in the Heber Valley in Wasatch County, Utah.

**FOR FURTHER INFORMATION CONTACT:**

Naomi Kisen, Environmental Program Manager, UDOT Environmental Services Division, 4501 South 2700 West, P.O. Box 148450, Salt Lake City, Utah 84114-8450; telephone: (801) 965-4005; email: [nkisen@utah.gov](mailto:nkisen@utah.gov). Craig Hancock, PE, Heber Valley Corridor Project Manager, UDOT Region Three, 658 North 1500 West, Orem, UT 84057; telephone: (801) 227-8034; email: [chancock@utah.gov](mailto:chancock@utah.gov).

**SUPPLEMENTARY INFORMATION:** The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being or have been carried out by UDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated January 17, 2017, and executed by FHWA and UDOT. UDOT, as the assigned National Environmental Policy Act (NEPA) agency, will prepare an EIS to evaluate transportation solutions to improve mobility through the Heber Valley and the operation of U.S. 40 in Wasatch County, Utah. The proposed project study area is centered on U.S. 40 from State Route (S.R.) 32 to the intersection with U.S. 189. The study area expands to include about 1.5 miles west of U.S. 40, 1.5 miles east of U.S. 40, and 1.5 miles south of the intersection of U.S. 40 and U.S. 189.

UDOT initiated an early scoping process in the spring of 2020 to provide information and solicit input before issuing this notice of intent. During early scoping, UDOT conducted a traffic and safety technical analysis and coordinated with agencies, stakeholders, and the public to identify transportation needs, preliminary alternatives, and potentially significant environmental issues. A public early scoping meeting was held on August 27, 2020. Based on early scoping, UDOT developed a draft purpose and need. The *Draft Purpose and Need Technical Report* and an *Early Scoping Summary Report* are available on the project website at <https://hebervalleyeis.udot.utah.gov>.

The preliminary purpose of this project as identified by UDOT is to improve regional and local mobility on U.S. 40 from S.R. 32 to U.S. 189 through 2050 while allowing Heber City to meet their vision for the historic town center. The need identified for the project is related primarily to traffic during peak periods, which is expected to get worse with increasing population. The primary needs include (1) the character and function of U.S. 40 changes from a 65-miles-per-hour (mph) limited-access freeway to a 35-mph Main Street in Heber City with signalized intersections, throughput is traded for increased

access within Heber's historic core resulting in congestion and delay; (2) U.S. 40 is currently operating at failing conditions (level of service F) from 100 North to 100 South during the PM peak hour, and these conditions will continue to get worse by 2050; (3) all signalized intersections on U.S. 40 are currently operating at acceptable conditions, but they are expected to operate at failing conditions during the PM peak hour by 2050; (4) southbound travel time on U.S. 40 from S.R. 32 to U.S. 189 during the PM peak hour will double by 2050 if no improvements are made; and (5) queue lengths (vehicles backed up waiting to get through an intersection) during the PM peak hour will increase and spill back to other intersections and onto U.S. 40 north of town where the posted speed is 55 mph, resulting in safety concerns. Opportunities to provide for more active transportation (e.g., bicycle and pedestrian) will also be part of the EIS.

To address these needs UDOT is proposing to provide additional north-south capacity, either through constructing a bypass road or improving existing roads. UDOT will consider a range of alternatives based on the purpose of and need for the project and taking into account agency and public input. The currently contemplated alternatives include (1) taking no action; (2) improvements to U.S. 40 such as adding lanes and intersection improvements; (3) improvements to existing roads other than U.S. 40; (4) a one-way-couplet system; (5) a new bypass west of U.S. 40; (6) a new bypass east of U.S. 40; (7) Transportation System Management (TSM); (8) transit; and (9) other reasonable alternatives if identified during the EIS process. Alternatives that do not meet the project's purpose and need or that are otherwise not reasonable will not be carried forward for detailed consideration in the EIS.

During the early scoping process, the public and agencies identified issues important to the community and natural environment that should be evaluated in the EIS. Based on this input, the EIS will evaluate the expected impacts and benefits from the proposed project to the following resources: Land use, farmland, social and community resources, environmental justice, traffic, economics, pedestrian and bicyclist considerations, air quality, noise, water quality, ecosystem resources (wetlands, wildlife, and threatened and endangered species), floodplains, cultural resources, hazardous waste sites, and visual resources.

A coordination plan is being prepared to define the agency and public

participation procedure for the environmental review process. The plan will establish cooperating and participating agency roles and a review schedule and will be posted on the project website. The project could require FHWA to reroute a U.S. highway on the National Network (highways designated for use by commercial truck traffic). The project might also require a permit from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act and approvals from other agencies such as the U.S. Fish and Wildlife Service (USFWS) for impacts to threatened and endangered species in the project area. Cooperating agencies have been preliminarily identified to include USACE and the U.S. Environmental Protection Agency. UDOT anticipates issuing a single Final Environmental Impact Statement and Record of Decision within 24 months in spring 2023.

Public involvement is a critical component of the project development process and will continue throughout the development of the EIS. All individuals and organizations expressing interest in the project will be able to participate in the process through various public outreach opportunities. These opportunities include, but are not limited to, public meetings and hearing(s), the project website, and press releases. Public notice will be given of the time and place of all public meetings and hearing(s). A public scoping meeting is not planned because one was held during the early scoping process. All interested parties are requested to provide comments on the draft purpose and need (available on the project website) and potential alternatives and impacts, and to identify any relevant information, studies or analyses of any kind concerning impacts affecting the quality of the human environment relevant to the project. Written comments or questions should be directed to UDOT representatives at the mail or email addresses provided above. A 45-day public comment period will run from April 30 to June 14, 2021.

For more information, please visit the project website at <https://hebervalleyeis.udot.utah.gov>. Information requests or comments can also be emailed to [hebervalleyeis@utah.gov](mailto:hebervalleyeis@utah.gov).

(Catalog of Federal and Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on



Federal programs and activities apply to this program.)

**Ivan Marrero,**

*Division Administrator, Federal Highway Administration, Salt Lake City, Utah.*

[FR Doc. 2021-09920 Filed 5-10-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[Docket No. FHWA-2021-0005]

#### Agency Information Collection Activities: Request for Comments for a New Information Collection

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by July 12, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number 2021-0005 by any of the following methods:

*Website:* For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

*Fax:* 1-202-493-2251.

*Mail:* Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

*Hand Delivery or Courier:* U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Susanna Hughes Reck, Office of Infrastructure, HISM-20, ((202) 366-1548 Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

*Title:* Biennial Performance Reporting for the TPM Program.

*Background:* The MAP-21 (Pub. L. 112-141) and FAST Act (Pub. L. 114-94) transformed the Federal-aid highway program by establishing new requirements for transportation performance management (TPM) to ensure the most efficient investment of Federal transportation funds. Prior to MAP-21, there were no explicit requirements for State DOTs to demonstrate how their transportation program supported national performance outcomes. State DOTs were not required to measure condition or performance, establish targets, assess progress toward targets, or report on condition or performance in a nationally consistent manner that FHWA could use to assess the entire system. It has been difficult for FHWA to examine the effectiveness of the Federal-aid highway program as a means to address surface transportation performance at a national level without States reporting on the above factors. The new TPM requirements, as established by MAP-21 and FAST Act, change this paradigm and require states to measure condition or performance, establish targets, assess progress towards targets and report on condition or performance.

State DOTs now must submit biennial performance reports (23 U.S.C. 150(e) and 23 CFR 490.107). The information being requested in the TPM Biennial Reports has been provided to the DOT in an electronic format through an online data form called the Performance Management Form (PMF). State DOTs have successfully submitted the required biennial reports in October 2018 and 2020. Alternative formats will be made available where necessary. As part of the rulemaking<sup>1</sup> implementing the MAP-21 and FAST Act requirements, FHWA evaluated all of the Biennial Reporting requirements in the individual regulatory impact assessments (RIA) and determined the following:

*Respondents:* 52 State DOTs, including Washington DC and Puerto Rico.

*Frequency:* Biennially.

*Estimated Average Burden per Response:* Approximately 2,128 hours

<sup>1</sup> 2nd National Performance Management Measures Rule (PM2): Assessing Pavement Condition for National Highway Performance Program and Bridge Condition for National Highway Performance Program; Assessing Performance of National Highway System, etc. (RIN: 2125-AF53) <https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00550.pdf>.

3rd National Performance Management Measures Rule (PM3): Assessing Performance of National Highway System, Freight Movement on Interstate System, and Congestion Mitigation and Air Quality Improvement Program (RIN 2125-AF54) <https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00681.pdf>.

annually for an individual State DOT to compile, organize, and submit the report to FHWA.

*Estimated Total Annual Burden Hours:* Approximately 110,656 hours annually.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (2) ways that the burden could be minimized, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 6, 2018.

**Michael Howell,**

*Information Collection Officer.*

[FR Doc. 2021-09960 Filed 5-10-21; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0113]

#### Agency Information Collection Activity: Application for Fee or Roster Personnel Designation

**AGENCY:** Veteran Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veteran 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 July 12, 2021.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://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. 2900–0113” in any correspondence. During the comment period, comments may be viewed online through the 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](mailto:maribel.aponte@va.gov). Please refer to “OMB Control No. 2900–0113” in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), 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:* Application for Fee or Roster Personnel Designation.

*OMB Control Number:* 2900–0113.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VA Form 26–6681 solicits information on the fee personnel applicant’s background and experience in the real estate valuation field. A fee appraiser is a qualified person requested by the Secretary to render an estimate of the reasonable value of a property, or of a specified type of property, within a stated area for the purpose of justifying the extension of credit to an eligible veteran (38 CFR 36.4301). The fee appraiser’s estimate of value is reviewed by a VA staff appraiser or lender’s staff appraisal reviewer who uses the data to establish the VA reasonable value (38 U.S.C. 3710(b)(4), (5), (6) and 3731(f)(1)), which becomes the maximum loan guaranty amount an eligible veteran can obtain.

*Affected Public:* Private Sector.

*Estimated Annual Burden:* 1,000 hours.

*Estimated Average Burden per Respondent:* 30 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 2,000 per year.

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. 2021–09919 Filed 5–10–21; 8:45 am]

**BILLING CODE 8320–01–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**[OMB Control No. 2900–0075]**

**Agency Information Collection Activity Under OMB Review: Statement in Support of Claim**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** 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](http://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. Refer to “OMB Control No. 2900–0075.”

**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](mailto:maribel.aponte@va.gov). Please refer to “OMB Control No. 2900–0075” in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* 38 U.S.C. 501.

*Title:* Statement in Support of Claim (VA Form 21–4138).

*OMB Control Number:* 2900–0075.

*Type of Review:* Reinstatement of a previously approved collection.

*Abstract:* VA Form 21–4138 is used to provide self-certified statements in support of various types of claims processed by VA. Statements submitted by or on behalf of a claimant should contain certification by the respondent that the information provided is true and correct. This form facilitates claims processing by providing a uniform format for the certification statement.

No substantive changes were added and/or removed from this form. This request is only to extend the viability of the form. Due to a reduction in respondent totals over the past year, the respondent burden has decreased.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 24 on February 8, 2021, pages 8682 and 8683.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 121,544 hours.

*Estimated Average Burden per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 486,174.

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. 2021–09918 Filed 5–10–21; 8:45 am]

**BILLING CODE 8320–01–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**AR16—Notice of Listening Sessions on the Department of Veterans Affairs Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Announcement for Public Meetings.

**SUMMARY:** The Department of Veterans Affairs (VA) will be holding two public virtual listening sessions to seek input on implementing the requirements of section 201 of the *Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019*. The Act mandates VA to establish the Staff Sergeant Parker Gordon Fox Suicide Prevention Grant Program (SSG Fox SPGP) to reduce Veteran suicide through a 3-year community-based grant program that would provide financial

assistance to eligible entities to provide or coordinate providing suicide prevention services to eligible Veterans and their families. VA is required to consult with certain entities related to administering this new grant program. VA previously published a request for information on April 1, 2021, seeking written comments from these entities to help inform VA's development of the SSG Fox SPGP and its implementing regulations. These public virtual listening sessions serve as additional means for VA to consult with these same entities.

**DATES:** VA will hold the first public virtual listening session on May 25, 2021, and the second public virtual listening session on May 26, 2021. Each meeting will start at 10:00 a.m. and conclude on or before 5:00 p.m. Eastern Standard Time (EST). There will be limited space for participants to speak at the public virtual listening sessions. To accommodate as many speakers as possible, participants will have no more than 20 minutes to provide oral comments, testimonies and/or technical remarks. More concise contributions are also welcome. The exact time allotted will vary based on the number of participants registered and selected to speak.

The sessions will be held virtually as a WebEx Event, and it will be open to the public to listen. Information about the meeting and registration to speak or listen can be obtained by emailing [VASSGFoxGrants@va.gov](mailto:VASSGFoxGrants@va.gov).

Virtual attendance will be limited to 1,000 registrants. Advanced registration for individuals and groups is strongly encouraged (see registration instructions below). Individuals or groups who seek to speak must pre-register by May 19, 2021, at 4:00 p.m. EST. Speakers must virtually check-in between 9:00 a.m. and 9:45 a.m. EST to test their WebEx access and resolve any platform issues.

**FOR FURTHER INFORMATION CONTACT:** Juliana Hallows, Associate Director for Policy and Planning—Suicide Prevention Program, Office of Mental Health and Suicide Prevention (OMHSP), 11MHSP, 810 Vermont Avenue NW, Washington, DC 20420, 202-266-4653. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 201 of the *Commander John Scott Hannon Veterans Mental Health Care Improvement Act of 2019* (the Act), Public Law 116-171, enacted on October 17, 2020, requires VA to create a new community-based suicide prevention grant program to reduce

Veteran suicide. Section 201 authorizes the award of grants for no more than \$750,000 per grantee per fiscal year to eligible entities to provide or coordinate providing suicide prevention services to eligible individuals and their families. An eligible individual is a person at risk of suicide who is a Veteran as defined in 38 U.S.C. 101, an individual described in 38 U.S.C. 1720I(b) or an individual described in 38 U.S.C. 1712A(a)(1)(C)(i)–(iv).

**Consultation With Interested Parties**

In administering the SSG Fox SPGP, VA is required to consult with certain entities to:

1. Establish the criteria for selecting eligible entities that have submitted applications;
2. Develop a framework for collecting and sharing information about eligible entities receiving grants; and
3. Develop the measures and metrics eligible entities receiving grants will use to determine the effectiveness of programming provided to improve mental health status, well-being and reduce suicide risk and deaths by suicide.

VA is also required to consult with entities in developing a plan for the design and implementing the provision of grants, including criteria for awarding such grants, and on non-traditional and innovative approaches and treatment practices. The Act requires VA to specifically consult with the following entities: (1) Veterans Service Organizations; (2) National organizations representing potential community partners in providing supportive services to address the needs of Veterans and their families, including national organizations that advocate for the needs of individuals with or at risk of behavioral health conditions as well as national organizations representing mayors, unions, first responders, chiefs of police and sheriffs, governors, a territory of the United States or representing a Tribal alliance; (3) National organizations representing members of the Armed Forces; (4) National organizations representing counties; (5) Organizations with which VA has a current memorandum of agreement or understanding related to mental health or suicide prevention; (6) State Departments of Veterans Affairs; (7) National organizations representing members of the Reserve Components of the Armed Forces; (8) National organizations representing members of the Coast Guard; (9) Organizations, including institutions of higher education, with experience in creating measurement tools for purposes of advising the Secretary on the most

appropriate existing measurement tool or protocol for VA to utilize; (10) The National Alliance on Mental Illness; (11) a labor organization (as such term is defined in 5 U.S.C. 7103(a)(4)); (12) The Centers for Disease Control and Prevention (CDC), the Substance Abuse and Mental Health Services Administration and PREVENTS; and (13) Such other organizations as the Secretary deems appropriate.

On April 1, 2021, VA published a request for information in the **Federal Register** seeking input from these groups and entities. See 86 FR 17268.

These public virtual listening sessions serve as an additional means for VA to consult with these entities. Responses will be used to inform development of the SSG Fox SPGP and its implementing regulations. Oral comment, testimonies and technical remarks are encouraged to be concise and directed toward specific virtual public listening session topics. Please note that VA will not respond to comments or other questions regarding policy plans, decisions or issues regarding this notice.

Comments received in response to this notice will be evaluated and, as appropriate, incorporated into a proposed rulemaking for grants under this law.

**Registration**

*Individual registration:* VA encourages individual registrations for those not affiliated with or representing a group, association or organization.

*Group registration:* Identification of the name of the group, association or organization should be indicated in your registration request. Due to virtual platform meeting limitations of WebEx and the statutory mandate that VA consult with certain entities, VA may select certain entities to speak or may limit the size of a group's registration to allow receipt of testimonies and/or technical remarks from a broad, diverse group of stakeholders. Oral comments, testimonies and/or technical remarks may be limited from a group, association or organization to no more than two (2) individuals representing the same group, association or organization. Efforts will be made to accommodate all attendees who wish to participate. However, VA will give priority to representatives of the stakeholders enumerated in the statute who request registration before May 19, 2021, 4:00 p.m. EST, and wish to provide oral comments, testimonies and/or technical remarks. The length of time allotted for participants to provide oral comments, testimonies and/or technical remarks during the meeting will be no more than 20 minutes and is

subject to the total number of participants speaking, to ensure time is allotted to selected registered speakers. There will be no opportunity for audio-visual presentations during the meeting.

*Audio (For listening purposes only):* Limited to the first 200 participants, on a first-come, first-served basis. Advanced registration is not required. Audio attendees will not be allowed to offer oral comments, testimonies and/or technical remarks as the phone line will be muted.

*Note:* Should it be necessary to cancel the meeting due to technical issues or other emergencies, VA will take available measures to notify registered participants. VA will conduct the public meeting informally, and technical rules of evidence will not apply. VA will arrange for a written transcript of the meeting and keep the official record open for 15 days after the meeting to allow submission of supplemental information. You may make arrangements for copies of the transcript directly with the reporter, and the transcript will also be posted in the docket of the rule as part of the official record when the rule is published.

Each listening session will focus on specific virtual public listening session topics described in this notice and specified in the following Agenda:

#### Listening Session 1

##### *Virtual Public Listening Session 1 Topics (May 25, 2021)*

- A. Distribution and Selection of Grants
- B. Administration of Grant Program
- C. Training and Technical Assistance

#### Agenda

- 09:00–10:00 Speaker Virtual Check-In
- 10:00–12:00 Morning Public Meeting Session
- 12:00–13:00 Break
- 13:00–17:00 Afternoon Public Meeting Session
- 17:00 Adjourn

#### Listening Session 2

##### *Virtual Public Listening Session 2 Topics (May 26, 2021)*

- D. Referral for Care
- E. Risk of Suicide
- F. Suicide Prevention Services

#### Agenda

- 09:00–10:00 Arrival/Check-In
- 10:00–12:00 Morning Public Meeting Session
- 12:00–13:00 Break
- 13:00–17:00 Afternoon Public Meeting Session
- 17:00 Adjourn

#### *Virtual Public Listening Session Topics*

To design and implement the SSG Fox SPGP consistent with, and pursuant to, section 201 of the Act, the Secretary seeks information on the topics and issues listed below. Commenters do not need to address every question and should focus on those that relate to their expertise or perspectives. To the extent possible, please clearly indicate which topics and issues you address in your response.

##### *Virtual Public Listening Session 1: May 25, 2021*

#### A. Distribution and Selection of Grants (Section 201(d)(h)(1) of the Act)

1. What criteria should VA establish for the selection of eligible entities that have submitted applications under the SSG Fox SPGP?

2. Pursuant to the Act, the Secretary shall give preference to eligible entities that have demonstrated the ability to provide or coordinate suicide prevention services. How should VA weigh evidence of demonstrated ability to provide or coordinate suicide prevention services, in giving preference to eligible entities that have demonstrated such ability?

#### B. Administration of Grant Program: Development of Measures and Metrics (Section 201(h)(2) of the Act)

1. How should VA collect and share information about entities in receipt of grants under the SSG Fox SPGP?

2. How can shared information about entities be used to improve the provision or coordination of suicide prevention services for eligible individuals and families?

3. What measures and metrics should eligible entities, who are in receipt of grants under the SSG Fox SPGP, use to determine the effectiveness of the programs they are providing?

4. What existing measurements, tool or protocols are available to determine program effectiveness? Which of these should be used for purposes of measuring effectiveness of programs provided through this grant program?

#### C. Training and Technical Assistance (Section 201(g) of the Act)

Section 201(g) of the Act provides that the Secretary, in coordination with CDC, shall provide training and technical assistance to grant recipients. The required training and technical assistance will cover suicide risk identification and management, data required to be collected and shared with VA, the means of data collection and sharing, use of tools to be used to measure the effectiveness of the grants

and the reporting requirements. The Secretary may provide the training and technical assistance directly or through grants or contracts with appropriate public or nonprofit entities.

1. What training and technical assistance programs and tools currently exist for the specified subject areas described above that could be utilized by VA?

2. What data collection tools and training currently exist for the specified subject areas that could be utilized by VA?

3. What tools and training currently exist for measuring the effectiveness of grants that could be utilized by VA?

4. What tools and training currently exist for managing reporting requirements that could be utilized by VA?

5. Should VA provide training and/or technical assistance directly, through grants or contracts with appropriate public or nonprofit entities, or a combination of both?

##### *Virtual Public Listening Session 2: May 26, 2021*

#### D. Referral for Care (Section 201(m) of the Act)

Section 201(m) of the Act provides that if an eligible entity in receipt of a grant under the SSG Fox SPGP determines that an eligible individual is at risk of suicide or other mental or behavioral health condition pursuant to a baseline mental health screening conducted under subsection (q)(11)(A)(ii) of the Act with respect to the individual, the entity shall refer the eligible individual to VA for additional care under subsection (n) of the Act or any other provision of law. Section 201(m) of the Act also provides that if an eligible entity in receipt of a grant under the SSG Fox SPGP determines that an eligible individual furnished clinical services for emergency treatment under subsection (q)(11)(A)(iv) of the Act requires ongoing services, the entity shall refer the eligible individual to VA for additional care under subsection (n) of the Act or any other provision of law.

1. When an eligible entity in receipt of a grant under the SSG Fox SPGP determines that an eligible individual is at risk of suicide or other mental or behavioral health condition pursuant to a qualifying baseline mental health screening, by what mechanism should the eligible entity refer the eligible individual to VA for additional care?

2. When an eligible entity in receipt of a grant under the SSG Fox SPGP determines that an eligible individual furnished clinical services for

emergency treatment requires ongoing services, by what mechanism should the eligible entity refer the eligible individual to VA for additional care?

3. How should referrals to VA for additional care be tracked and reported by eligible entities?

#### E. Risk of Suicide

Section 201(q)(8) of the Act directs the Secretary to determine by regulation the degrees of risk of suicide using health, environmental and historical risk factors enumerated in section 201(q)(8)(A)(i)–(iii). Section 201(q)(8) also provides that the Secretary may, through regulation, establish a process for determining the degrees of risk of suicide for use by grant recipients to focus the delivery of suicide prevention services.

1. What degree(s) of exposure to, or the existence of, the health, environmental and historical risk factors enumerated in section 201(q)(8)(A)(i)–(iii) should VA utilize in determining degrees of risk of suicide?

2. What process should VA establish for use by grant recipients in determining the degrees of risk of suicide to focus the delivery of services using grant funds?

#### F. Suicide Prevention Services

Section 201(q)(11)(A)(x) of the Act notes that suicide prevention services includes non-traditional and innovative approaches and treatment practices, as determined appropriate by the Secretary, in consultation with appropriate entities.

1. What non-traditional and innovative approaches and treatment

practices should VA determine to be appropriate to be provided under this grant program?

#### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 5, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

#### Jeffrey M. Martin,

*Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

[FR Doc. 2021–09956 Filed 5–10–21; 8:45 am]

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