
# FEDERAL REGISTER

Vol. 86 Wednesday

No. 114 June 16, 2021

Pages 31903–32184

OFFICE OF THE FEDERAL REGISTER

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**Reader Aids**

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

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## CFR PARTS AFFECTED IN THIS ISSUE

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

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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 10227 of June 11, 2021**

## Flag Day and National Flag Week, 2021

**By the President of the United States of America**

**A Proclamation**

In the midst of a revolution, less than a year after declaring our independence, the Congress consecrated what would become an enduring emblem of American unity by adopting a national flag on June 14, 1777.

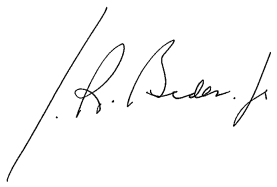
In the 244 years since, the United States has grown and changed across the generations—and our flag has changed in turn. The blue field of stars has been enlarged as our Union has gained in size and strength. The 13 stripes, symbolizing the 13 original States, have held as constant as the bedrock values upon which our Nation was first conceived—the very same values we still cherish, and still reach for, today.

Since adoption of the Stars and Stripes, Americans—and people around the world—have continuously looked to our flag as a symbol of unity and liberty. Our flag has sailed around the globe, and journeyed to the Moon and, now, to Mars. It has flown on fields of battle, and marks the resting places of those who have given what President Lincoln called ''the last full measure of devotion'' for our country. Its prominence at civic landmarks and seats of public authority communicates the promise of democracy—that under this flag, the rule of law is supreme and the people reign. As we continue the sacred work of building a more perfect Union together, let our flag serve as a reminder to us, and to the world, that America stands for and strives for the promise of freedom, justice, and equality for all.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949, as amended (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested that the President issue an annual proclamation calling for its observance and for the display of the flag of the United States on all Federal Government buildings. The Congress also requested, by joint resolution approved June 9, 1966, as amended (80 Stat. 194), that the President issue annually a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim June 14, 2021, as Flag Day, and the week starting June 13, 2021, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during this week, and I urge all Americans to observe Flag Day and National Flag Week by displaying the flag. I encourage the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, set aside by the Congress (89 Stat. 211), as a time to honor the American spirit, to celebrate our history and the foundational values we strive to uphold, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of June, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-fifth.



[FR Doc. 2021–12842
Filed 6–15–21; 8:45 am]
Billing code 3295–F1–P

# Rules and Regulations

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0446; Project Identifier 2018–SW–029–AD; Amendment 39–21590; AD 2021–12–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a.

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model AW189 helicopters. This AD was prompted by a report of the bubble window departing from the helicopter during flight. This AD requires installation of a new improved bubble window kit, as specified in a European Aviation Safety Agency (now the European Union Aviation Safety Agency) (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective July 1, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 1, 2021.

The FAA must receive comments on this AD by August 2, 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 incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0446.

### 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–2021–0446; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0082, dated April 11, 2018 (EASA AD 2018–0082) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Leonardo S.p.a. Model AW189 helicopters, if equipped with bubble windows kit part number 8G5620F00111.

This AD was prompted by a report of a bubble window departing from the helicopter during flight. The FAA is issuing this AD to address degradation of the installation of the bubble windows, which could cause loss of a bubble window during flight, possibly resulting in damage to the helicopter and injury to persons on the ground. See the MCAI for additional background information.

### Related IBR Material Under 1 CFR Part 51

EASA AD 2018–0082 specifies procedures for, among other actions, modifying the left-hand and right-hand bubble windows with an improved bubble window kit. 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

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 issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other products of the same type design.

### Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2018–0082, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the MCAI.''

### 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 2018–0082 is incorporated by reference in this final rule. This AD, therefore, requires compliance with EASA AD 2018–0082 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this 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 2018–0082 that is required for compliance with EASA AD 2018–0082 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0446.

**Differences Between This AD and the MCAI**

The requirements specified in paragraphs (1), (2), (3) and (5) of EASA AD 2018–0082 do not apply to this AD.

**FAA's Justification and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

There are currently no domestic operators of these products. Therefore, the FAA finds that notice and opportunity for prior public comment are unnecessary and that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0446; Project Identifier 2018–SW–029–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the AD, 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 AD 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 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 AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Regulatory Flexibility Act (RFA)**

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

**Costs of Compliance**

Currently, there are no affected U.S.-registered helicopters. If an affected helicopter is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 32 work-hours × $85 per hour = $2,720 | $2,000 | $4,720 |

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

The FAA determined that this AD would not have federalism implications under Executive Order 13132. This 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 regulation:

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

(2) Will not affect intrastate aviation in Alaska.

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

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

**The Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2021–12–03 Leonardo S.p.a.:** Amendment 39–21590; Docket No. FAA–2021–0446; Project Identifier 2018–SW–029–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective July 1, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Leonardo S.p.a. Model AW189 helicopters, certificated in any category, equipped with bubble windows kit Part Number (P/N) 8G5620F00111, as identified in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0082, dated April 11, 2018 (EASA AD 2018–0082).

**(d) Subject**

Joint Aircraft System Component (JASC) Code 5600, Window/Windshield System.

**(e) Unsafe Condition**

This AD was prompted by a report of a bubble window departing from the helicopter during flight. The FAA is issuing this AD to address degradation of the installation of the bubble windows, which could cause loss of a bubble window during flight, possibly resulting in damage to the helicopter and injury to persons on the ground.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0082.

**(h) Exceptions to EASA AD 2018–0082**

(1) Where EASA AD 2018–0082 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2018–0082 does not apply to this AD.

(3) Where the service information referenced in EASA AD 2018–0082 specifies to discard certain parts, this AD requires removing those parts from service.

(4) Where EASA AD 2018–0082 refers to flight hours (FH), this AD requires using hours time-in-service.

(5) The requirements specified in paragraphs (1), (2), (3) and (5) of EASA AD 2018–0082 do not apply to this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2018–0082 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Alternative Methods of Compliance (AMOCs)**

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

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

**(k) Related Information**

For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) European Aviation Safety Agency (EASA) AD 2018–0082, dated April 11, 2018.

(ii) [Reserved]

(3) For EASA AD 2018–0082, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0446.

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

Issued on June 9, 2021.

**Ross Landes,**

*Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–12516 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2021–0208; Airspace Docket No. 21–ANM–5]**

**RIN 2120–AA66**

## Modification of Class E Airspace; Missoula, MT

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class E airspace extending upward from 1,200 feet above the surface at Missoula International Airport, Missoula, MT.

**DATES:** Effective 0901 UTC, August 12, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

**FOR FURTHER INFORMATION CONTACT:** Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Class E airspace at Missoula International Airport, Missoula, MT, to ensure the safety and management of instrument flight rules (IFR) operations at the airport.

**History**

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 18488; April 9, 2021) for Docket No. FAA–2021–0208 to modify the Class E airspace at Missoula International Airport, Missoula, MT. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received. The commenter suggested that the Class E5 airspace boundaries should be expanded to encompass all of the Class G airspace, extending upward from 1,200 feet above the surface, near the airport. The FAA does not agree. Title 49 of the US Code provides the FAA with its legal authority to manage the NAS. It also provides that citizens of the United States have a public right of transit through navigable airspace. Minimizing the volume of regulated airspace ensures the FAA is being consistent to its legislated responsibilities. Class E5 airspace is designed to contain IFR operations transitioning to or from the terminal and en route environments. Expanding the airspace boundaries for the sole purpose of reducing areas of Class G airspace would not be appropriate.

Class E5 airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**Availability and Summary of Documents for Incorporation by Reference**

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

**The Rule**

This amendment to 14 CFR part 71 modifies the Class E airspace, extending upward from 1,200 feet above the surface, at Missoula International Airport, Missoula, MT. This airspace is designed to contain IFR aircraft transitioning to/from the terminal and en route environments. This action proposes to increase the airspace's radius of the airport from 35 miles to 46 miles. The 46-mile radius will properly contain IFR aircraft transitioning to/from the airport.

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

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

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

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

* * * * *

**ANM MT E5 Missoula, MT [Amended]**

Missoula International Airport, MT
(Lat. 46°54′59″ N, long. 114°05′26″ W)

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the 311° bearing extending from the Class D 4.4-mile radius to 22.3 miles northwest of the airport, and 1.6 miles west and 4.3 miles east of the 179° bearing extending from the Class D 4.4-mile radius to 15.2 miles south of the airport, and that airspace extending upward from 1,200 feet about the surface within a 46-mile radius of the Missoula International Airport.

Issued in Des Moines, Washington, on June 10, 2021.

**B.G. Chew,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2021–12662 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Part 744

**[Docket No. 210611–0126]**

**RIN 0694–AI55**

## Removal of Entity From the Entity List

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by removing one entity located under two entries from the Entity List under the destinations of France and the United Arab Emirates (UAE). These removals from the Entity List are made in connection with a request for removal that BIS received pursuant to the EAR and a review of information provided in the request.

**DATES:** This rule is effective June 15, 2021.

**FOR FURTHER INFORMATION CONTACT:** Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The Entity List (supplement no. 4 to part 744 of the EAR) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States. The EAR (15 CFR parts 730–774) impose additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity is identified in the ''License Review Policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List and the Military End User (MEU) List. The ERC makes all decisions to add an entry to the Entity List and MEU List by majority vote and all decisions to remove or modify an entry by unanimous vote.

### Entity List Decisions

*Removals From the Entity List*

This rule implements a decision of the ERC to remove Satori Corporation, an entity located in France and the UAE, from the Entity List on the basis of a removal request. The entries for Satori Corporation under the destinations of France and the UAE were added to the Entity List on December 22, 2020 (85 FR 83420, December 22, 2020). The ERC decided to remove this one entity with two entries based on information BIS received pursuant to § 744.16 of the EAR and the review the ERC conducted in accordance with procedures described in supplement no. 5 to part 744 of the EAR.

This final rule implements the decision to remove the following one entity under two entries, located in France and the UAE, from the Entity List:

**France**

- Satori Corporation.

**UAE**

- Satori Corporation.

### Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule.

### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications, and carries a burden estimate of 29.6 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of ECRA (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

### List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

## PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001

Comp., p. 786; Notice of September 18, 2020, 85 FR 59641 (September 22, 2020); Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

**Supplement No. 4 to Part 744 [Amended]**

■ 2. Supplement No. 4 to part 744 is amended:
■ a. Under FRANCE by removing the entry for ''Satori Corporation''; and
■ b. Under the UNITED ARAB EMIRATES by removing the entry for ''Satori Corporation.''

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2021–12751 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF HOMELAND SECURITY

## U.S. Customs and Border Protection

## DEPARTMENT OF THE TREASURY

## 19 CFR Part 12

**[CBP Dec. 21–09]**

**RIN 1515–AE64**

## Import Restrictions Imposed on Categories of Archaeological and Ethnological Material of Turkey

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain categories of archaeological and ethnological material from the Republic of Turkey (Turkey). These restrictions are being imposed pursuant to an agreement between the United States and Turkey that has been entered into under the authority of the Convention on Cultural Property Implementation Act. This final rule amends the CBP regulations by adding Turkey to the list of countries which have a bilateral agreement with the United States that imposes cultural property import restrictions. This final rule also contains the Designated List that describes the types of archaeological and ethnological material to which the restrictions apply.

**DATES:** Effective on June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325–0300, *ot-otrrculturalproperty@cbp.dhs.gov.* For operational aspects, Pinky Khan, Branch Chief, Commercial Targeting and Analysis Center, Trade Policy and Programs, Office of Trade, (202) 325–3839, *CTAC@cbp.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The Convention on Cultural Property Implementation Act, Public Law 97–446, 19 U.S.C. 2601 *et seq.* (hereinafter, ''the Cultural Property Implementation Act'') implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereinafter, ''the Convention'' (823 U.N.T.S. 231 (1972)). Pursuant to the Cultural Property Implementation Act, the United States entered into a bilateral agreement with the Republic of Turkey (Turkey) to impose import restrictions on certain archaeological and ethnological material from Turkey. This rule announces that the United States is now imposing import restrictions on certain archaeological and ethnological material from Turkey.

### Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On March 27, 2020, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendation by the Cultural Property Advisory Committee, made the determinations required under the statute with respect to certain archaeological and ethnological material originating in Turkey that is described in the Designated List set forth below in this document.

These determinations include the following: (1) That the cultural patrimony of Turkey is in jeopardy from the pillage of archaeological material representing Turkey's cultural heritage dating from approximately 1.2 million years ago to A.D. 1770, and ethnological material dating from approximately the 1st century A.D. to A.D. 1923; (2) that the Turkish government has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the material described in the determinations meets the statutory definition of ''archaeological or ethnological material of the State Party'' (19 U.S.C. 2601(2)).

### The Agreement

On January 19, 2021, the United States and Turkey signed a bilateral agreement, ''Memorandum of Understanding between the Government of the United States of America and the Government of the Republic of Turkey Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Material of Turkey'' (''the Agreement''), pursuant to the provisions of 19 U.S.C. 2602(a)(2). The Agreement entered into force on March 24, 2021, upon the exchange of diplomatic notes, and enables the promulgation of import restrictions on categories of archaeological material, ranging in date from approximately 1.2 million years ago to A.D. 1770, and ethnological material, ranging in date from the 1st century A.D. to A.D. 1923, representing Turkey's cultural heritage. A list of the categories of archaeological and ethnological material subject to the import restrictions is set forth later in this document.

### Restriction and Amendment to the Regulations

In accordance with the Agreement, importation of material designated below is subject to the restrictions of 19 U.S.C. 2606 and § 12.104g(a) of title 19 of the Code of Federal Regulations (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the CBP Regulations (19 CFR 12.104c) are met. CBP is amending § 12.104g(a) of the CBP Regulations (19 CFR 12.104g(a)) to indicate that these import restrictions have been imposed.

Import restrictions listed as 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the Agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the Agreement still pertain and no cause for suspension of the Agreement exists. The import

restrictions will expire on March 24, 2026, unless extended.

**Designated List of Archaeological and Ethnological Material of Turkey**

The Agreement between the United States and Turkey includes, but is not limited to, the categories of objects described in the Designated List set forth below. Importation of material on this list is restricted unless the material is accompanied by documentation certifying that the material left Turkey legally and not in violation of the export laws of Turkey.

The Designated List includes archaeological material from Turkey ranging in date from approximately 1.2 million years ago to A.D. 1770, and ethnological material from Turkey from the 1st century A.D. to the end of the Ottoman Empire with the foundation of the Republic of Turkey in A.D. 1923.

**Categories of Archaeological and Ethnological Material**

I. Archaeological Material
- A. Stone
- B. Metal
- C. Ceramic, Terracotta, and Faience
- D. Bone, Ivory, and Other Organic Material
- E. Wood
- F. Glass
- G. Plaster and Stucco
- H. Textile
- I. Leather, Parchment, and Paper
- J. Rock Art, Paintings, and Drawings
- K. Mosaics

II. Ethnological Material
- A. Architectural Elements
- B. Funerary Objects
- C. Ritual and Ceremonial Objects
- D. Paintings
- E. Written Records
- F. Military Material

**I. Archaeological Material**

Archaeological material covered by the Agreement includes material from Turkey ranging in date from approximately 1,200,000 B.C. to A.D. 1770. Examples of archaeological material covered by the agreement include, but are not limited to, the following objects:

*Simplified Chronology*

*Paleolithic:* c. 1,200,000–10,000 B.C.
*Neolithic:* c. 10,000–5500 B.C.
*Chalcolithic:* c. 5500–3200 B.C.
*Bronze Age:* 3200–1200 B.C.
*Hattis:* 2500–2000 B.C.
*Assyrian Trade Colonies:* 2000–1750 B.C.
*Hittites:* 1800–1200 B.C.
*Mycenaean:* 1600–1200 B.C.
*Iron Age:* 1200–750 B.C.
*Protogeometric and Geometric Periods:* 1100–700 B.C.
*Phyrigians:* 1200–680 B.C.
*Neo-Hittite City States:* 1200–700 B.C.
*Urartians:* 900–580 B.C.
*Orientalizing Period:* 750–600 B.C.
*Lydians:* 700–540 B.C.
*Karians and Lykians:* 700–300 B.C.
*Archaic Period:* 650–474 B.C.
*Classical Period:* 480–330 B.C.
*Persian Period:* 546–331 B.C.
*Macedonian Empire and Hellenistic Period:* 334–30 B.C.
*Roman Period:* 130 B.C.–A.D. 395
*Byzantine (Eastern Roman) Period:* A.D. 395–1453
*Seljukian Period:* A.D. 1071–1308
*Anatolian Beyliks Period:* A.D. 1256–1522
*Islamic/Ottoman Period:* A.D. 1299–1923

*A. Stone*

1. Sculpture

a. Architectural Elements—Primarily in basalt, limestone, and marble; including blocks from walls, floors, and ceilings; acroterion, antefix, architrave, columns, capitals, bases, lintels, jambs, friezes, pediments, tympanum, metopes, and pilasters; doors, door frames, and window fittings; caryatids, columns, altars, prayer niches, mihrab, screens, wellheads, fountains, mosaics, and tiles. This category also includes relief and inlay sculpture that may have been part of a building, such as friezes of sculpted stone figures set into inlaid stone or bitumen backgrounds. May be plain, molded, carved, or inscribed. Decorative motifs may be incised or in high relief. Approximate date: 10th millennium B.C. to the 18th century A.D.

b. Monuments and Stelae—Types include triumphal arches and columns, obelisk, herms, and stone blocks. This category also includes votive and funerary stelae with or without relief sculpture and/or inscriptions, usually in limestone, basalt, and marble. Common subject matter also includes human and animal figures, floral motifs, and geometric designs. Approximate date: 10th millennium B.C. to the 18th century A.D.

c. Sarcophagi and Ossuaries—In marble and limestone. The sides and lids of sarcophagi and ossuaries (*osthoteks*) may have relief sculptures of human and animal figures, inscriptions, monograms, and floral and geometric decoration. Approximate date: 10th millennium B.C. to the 18th century A.D.

d. Large Statuary—Primarily in basalt and marble, some examples in limestone, steatite (soapstone), and other types of stone. Subject matter includes human, animal, and mythological figures, icons, busts, models, molds, and groups of figures in the round, as well as parts of figures commonly used for adoration such as hands, arms, and phallus. Approximate date: 10th millennium B.C. to the 18th century A.D.

e. Small Statuary—This type includes humans, deities (idols), mythological creatures, animals, and groups of figures in the round, as well as parts of figures. Some early examples of human idols are stylized, such as ''violin-shaped'' figures. Approximate date: 10th millennium B.C. to the 18th century A.D.

f. Small Scale Inlay Sculpture—Small-scale examples include flat, cut-out figures in light-colored stones set against dark stone or bitumen backgrounds. These may decorate boxes or furniture. Subject matter includes narrative scenes such as warfare and banquet scenes. Approximate date: 10th millennium B.C. to the 18th century A.D.

g. Furniture—In limestone, basalt, and marble. Types include tables (*trapezas*), one-legged tables (*monopodias*), thrones, *fulcras,* and beds. Approximate date: 10th millennium B.C. to the 18th century A.D.

2. Vessels—In marble, steatite, rock crystal, and other stone. These may belong to conventional shapes such as bowls, cups, jars, jugs, and lamps, or may occur in the shape of a human or animal, or part of human or animal. Approximate date: 10th millennium B.C. to the 18th century A.D.

3. Tools and Weapons—In flint, quartz, obsidian, silex, limestone, and other hard stones. Types of stone tools include large and small blades, borers, scrapers, sickles, awls, harpoons, cores, and arrow heads. Ground stone types include grinders (*e.g.,* mortars, pestles, millstones, whetstones), choppers, axes, hammers, molds, and mace heads. Approximate date: 1.2 million years ago to the 18th century A.D.

4. Seals and Stamps—These are small devices with at least one side engraved with a design for stamping or sealing, often in marble, limestone, and various semiprecious stones including rock crystal, amethyst, jasper, agate, steatite, and carnelian. This category includes seals, scarabs and scaraboids, and gems engraved with a design, scene, pattern, or inscription. Shapes can include cylinders, buttons, and prismatic. Approximate date: 10th millennium B.C. to the 18th century A.D.

5. Jewelry and Beads—Jewelry of or decorated with colored and semi-precious stones, including beads, necklaces, pendants, cameos, crowns, earrings, finger rings, bracelets, anklets, belts, girdles, pins, hair ornaments, and arm bands. May be incised or cut as gems or cameos. Approximate date: 1.2 million years ago to the 18th century A.D.

*B. Metal*

1. Sculpture

a. Large Statuary and Portraits—Primarily in bronze, in a variety of styles. Subject matter includes human, animal, and mythological figures, icons, busts, and groups of figures in the round, as well as parts of figures commonly used for adoration such as hands, arms, and phallus. Sarcophagi lids, including kline lids with recumbent figures, are also included. Approximate date: 5th millennium B.C. to the 18th century A.D.

b. Small Statuary—In bronze, copper, gold, silver, electrum, iron, and lead. Subject matter includes human, animal, and mythological figures. In early examples, idols representing deities for religious purposes may be very stylized, such as twin idols, or semi-circular idols. Approximate date: 5th millennium B.C. to the 18th century A.D.

c. Reliefs—In bronze, copper, gold, silver, electrum, iron, and lead. Types include plaques, appliqués, burial masks, and leaves. Approximate date: 5th millennium B.C. to the 18th century A.D.

d. Inscribed and Decorated Metal Sheets and Plates—In bronze, copper, gold, silver, electrum, iron, and lead. Thin metal sheets with engraved or impressed designs, often used as attachments to furniture. Approximate date: 5th millennium B.C. to the 18th century A.D.

2. Vessels—In bronze, copper, gold, silver, electrum, iron, and lead. This type includes conventional forms such as pitchers, bowls, cauldrons, jugs, globular flasks (*aryballos*), goblets, phials, ladles, lamps, and candelabra. Objects may be in conventional shapes or may be in human or animal shapes. Approximate date: 5th millennium B.C. to the 18th century A.D.

3. Jewelry and Personal Adornment—In bronze, copper, gold, silver, electrum, iron, and lead. This type includes earrings, ear caps, finger rings, beads, bracelets, cuffs, necklaces, pendants, straight and safety pins (*fibulae*), crowns, wreaths, diadems, fibulas, pectoral decorated sheets, belts, buckles, and textile decorations. Approximate date: 5th millennium B.C. to the 18th century A.D.

4. Tools—This category includes hammers, saws, hooks, axes, chisels, scissors, scrapers (*strigils*), weights, bells, trowels, mirrors, forks, spoons, nails, scales, curling rods (*calamistrum*), locks, keys, ingots, medical tools such as forceps, probes, and cautery tools, and door knockers which may be in the form or human or animal figures. Approximate date: 5th millennium B.C. to the 18th century A.D.

5. Weapons and Armor—In bronze, copper, gold, silver, electrum, iron, and lead. This category includes common weapon types, such as daggers, arrows, swords, spears, harpoons, javelins, axes, rapiers, and maces. Body armor is also included, such as helmets, shields, cuirasses, horse armor, and chariot decoration. Some may have inscriptions or be otherwise decorated. Approximate date: 5th millennium B.C. to the 18th century A.D.

6. Seals and Stamps—These are small devices with at least one side engraved with a design for sealing or stamping, often in bronze, copper, gold, silver, electrum, iron, or lead. Types include rings, amulets, stamps, and seals with shank. Approximate date: 5th millennium B.C. to the 18th century A.D.

7. Ceremonial Objects—Ritual and ceremonial objects pertaining to Turkey's religious communities, in bronze, copper, gold, silver, electrum, iron, and lead. This type includes libation vessels, ritual cauldrons and pitchers, rhytons, masks, chalices, plates, censers, candelabras, crosses, pendants, bells, reliquaries, liturgical spoons, Kiddush cups, book covers and boxes, decorated book spines, Torah pointers, finials, and ampoules. Approximate date: 5th millennium B.C. to the 18th century A.D.

8. Musical Instruments—Trumpets, clappers, sistrums, castanets, cymbalon, aulos, plagiaulos, cornu, lituus, buccina, tuba, hydraulis, lyre, xylophone, and metal parts of other instruments otherwise primarily in wood or bone. Approximate date: 5th millennium B.C. to the 18th century A.D.

9. Coins

a. Greek coins—Archaic coins, dated to 640–480 B.C., in electrum, silver and billon, that circulated primarily in Turkey; Classical coins, dated to 479–332 B.C., in electrum, silver, gold, and bronze, that circulated primarily in Turkey; and Hellenistic coins, dated to 332–31 B.C., in gold, silver, bronze and other base metals, that circulated primarily in Turkey. Greek coins were minted by many authorities for trading and payment and often circulated all over the ancient world, including in Turkey. All categories are based on find information provided in Thompson, M., Mørkholm, O., Kraay, C., *Inventory of Greek Coin Hoards,* 1973 (available online at *http://coinhoards.org/*) and the updates in Coin Hoards I–X as well as other hoard and single find publications. Mints located in Turkey and surrounding areas are found in Head, B. V., *Historia Numorum, A Manual of Greek Numismatics,* 1911 (available online at *http://snible.org/coins/hn/*).

b. Roman provincial coins—Roman provincial coins, dated from the end of 2nd century B.C. to the early 6th century A.D., in gold, silver, and bronze and copper that circulated primarily in Turkey.

c. Byzantine period coins—Byzantine period coins, in gold, silver, bronze, copper coins, and sometimes electrum, dating from the early 6th century to the 15th century A.D., that circulated primarily in Turkey, (*e.g.,* coins produced at mints in Nicaea and Magnesia under the Empire of Nicaea).

d. Medieval and Islamic coins—Medieval and Islamic coins, in gold, silver, bronze, and copper coins from approximately A.D. 1077–1770, that circulated primarily in Turkey.

*C. Ceramic, Terracotta, and Faience*

1. Sculpture

a. Architectural Elements—Baked clay (terracotta) elements used to decorate buildings. Elements include tiles, roof coverings, antefixes, plates, and decorative elements such as reliefs, votive tablets (*pinakes*), friezes and acroters, and wall decorations such as cones, glazed bricks, and decorated knobs. Approximate date: 2nd millennium B.C. to the 18th century A.D.

b. Sarcophagi and Ossuaries—Sarcophagi and coffins, with separate lids, either in the form of a large rectangular box, or human-shaped and carved with modeled human features. Sarcophagi may be painted, inlaid, and/or decorated with incised or sculpted relief of floral or geometric motifs and inscriptions. Ossuaries are rectangular or in the shape of stylized animals and may be decorated. Approximate date: 2nd millennium B.C. to the 18th century A.D.

c. Large Statuary—Subject matter includes human and animal figures, icons, models, molds, and groups of figures in the round. Common types are large-scale, free-standing statuary approximately 1–2.5 m. in height and life-size busts (head and shoulders of an individual). Approximate date: 5th millennium B.C. to the 18th century A.D.

d. Small Statuary—Subject matter is varied and includes humans, deities (idols), mythological creatures, animals, and groups of figures in the round, as well as parts of figures. These range in height: Approximately 10 cm.–1 m. Approximate date: 5th millennium B.C. to the 18th century A.D.

e. Terracotta Plaques—These are produced by carving or using molds; may have a variety of subject matter.

Type also includes molds and models used in production. Approximate date: 5th millennium B.C. to the 18th century A.D.

f. Models—These are small-scale objects in terracotta, including chariots, boats, buildings, and furniture such as chairs and beds. Approximate date: 11th millennium B.C. to the 18th century A.D.

2. Vessels—Ceramic types, forms, and decoration vary among archaeological styles over time. Forms may be handmade or produced with ceramic lathe, plain or decorated, and may be glazed, unglazed, varnished, painted, engraved, and/or incised. They may be produced in Turkey or imported into Turkey at or near the time of production. Some of the most well-known types are highlighted below:

a. Neolithic and Chalcolithic Period—This type includes bowls, cups, jars, pots, urns, and ritual vessels in the shape of a woman or animal. Some examples are painted with yellow, brown, or red; patterns include concentric circles, horizontal lines, and geometric motifs over cream or red slip.

b. Early Bronze Age—This type includes two-handled goblets (*depas amphikypellon*), beak-spouted pitchers, anthropomorphic jars, pedestal bowls, amphorae, vases, double-/triple-/quadruple vessels (two or more cups or bowls attached at a central point to form a single vessel), mugs, boxes, and small pots with lids (*pyxis*).

c. Middle and Late Bronze Age—This type includes Assyrian Trade Colonial, Hittite, and early Mycenaean pottery. In this period, ceramic lathe and glaze techniques became common and forms became thinner. Type includes ceremonial vessels in the shape of animals (*rythons*), plates, double-handled drinking vessels (*kantharos*), bathing bowls, and vases.

d. Geometric, Orientalizing, Archaic, and Classical Periods—This type includes vessels used for holding oil or perfume (*alabastron, lekythos, aryballos, lydion*), jars used for storage (*amphorae, pelike, pithoi, hydria*), pitchers and jugs (*oinochoe, olpe*), boxes for holding cosmetics or jewelry (*pyxis*), drinking cups (*kylix, kantharoi, skyphoi*), tankards, other vessels (*krater, askos*), ceremonial vases (*lebes gamikos*), plates, and lamps. Black-figure technique was common in Greek city-states in Western Anatolia, starting in 7th century B.C. Vessels in this technique are decorated with black painted figures on a clear clay ground. Vessels with red-figure technique (decorative elements in reserve with background fired black) are also common in Western Anatolia. Most black- and red-figure vessels are decorated with scenes of daily life or mythology.

e. Hellenistic and Roman Periods—This type includes vessel forms noted in previous time periods, as well as small bottles (*unguentarium*) and wine jars (*lagynos*). There is less decorative painting in this period; instead, types display simple motifs and/or reliefs. Fine red Roman tableware (*terra sigillata*) is also common.

f. Byzantine Period—Vessel types include amphorae, bowls, plates, chalices, beakers, and special shapes such as pilgrim flasks. Types include red slipwares, as well as glazed and unglazed vessels. Unglazed wares are usually undecorated; other examples may be decorated with various techniques and motifs such as human figures, animals, florals, and other symbolic motifs.

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

3. Objects of Daily Use—This type includes objects of daily use including toys, weights, and lamps. Approximate date: 5th millennium B.C. to the 18th century A.D.

4. Seals, Stamps, and Tablets—This type includes cuneiform tablets from Anatolia during the Assyrian Colonial Period and Hittite Period; some tablets may be encased with a clay envelope. This type also includes seals used to mark ceramics, textiles, leather, other organic materials, and live animals. Approximate date: 5th millennium B.C. to the 18th century A.D.

5. Islamic Period Tiles—Tiles were used mainly for adorning walls, roofs, and floors of buildings such as mosques, masjids, mausoleums, and palaces. During the Seljuk Period, common motifs included star and cross, mythological creatures, human and animal figures, natural and floral motifs, geometric motifs, and inscriptions. During the Ottoman Period, most tiles are decorated with floral motifs, including the *saz* style with composite flowers and *saz* leaves. Glazed bricks used in this period are also included. Approximate date: 11th century to the 18th century A.D.

*D. Bone, Ivory, and Other Organic Material*

1. Small Statuary and Figurines—This type includes human, animal, and other figures in the round. Size may range between 5 cm.–1 m. in height. Approximate date: c. 20,000 B.C. to the 18th century A.D.

2. Objects of Daily Use—This type includes materials in bone, ivory, mother of pearl, seashell, and tortoise shell that may be used as decoration or inlay for architectural elements, furniture, or relief plaques. Type also includes amulets and pendants, other jewelry and beads, buckles, combs, pins, *pyxis,* boxes, needles, dice, mirror backs, handles, carved diptychs, writing and painting equipment, and musical instruments. Approximate date: 350,000 B.C. to the 18th century A.D.

3. Seals and Stamps—These are small objects with at least one side with engraved designs for stamping or sealing. They may be cuboid, conoid, or in the shape of animals or mythological creatures. Approximate date: 7th millennium B.C. to the 18th century A.D.

4. Weapons and Tools—Bone, ivory, and horn were also used to produce and decorate weapons and tools. In addition to conventional types, such as needles, awls, chisels, picks, knives, spearheads, and blades, these materials were also used for *zighir* (thumb ring used to draw a bow) and wrist shields. Found as early as 1.2 million years ago.

5. Human and Animal Remains—Skeletal remains from human and animal bodies, preserved in burials or other contexts. Some examples may be plastered or painted with ochre. Found as early as 1.2 million years ago.

*E. Wood*

1. Architectural Elements—This type includes walls, ceilings, floors, panels, balconies, doors, altars, parts of vaults, minbar, mihrab, muqarnas, decorative elements, ladders, or pieces of any of these objects. May be engraved, painted, inlaid, or otherwise decorated. Approximate date: 9th millennium B.C. to the 18th century A.D.

2. Objects of Daily Use—This type includes furniture such as chairs, stools, beds, tables, chests, and desks; kitchen and tableware, book cases, book holders, lecterns, prayer panels, carved diptychs, writing and painting equipment, games, game boxes, combs, clasps, needles, beads, and musical instruments. May be engraved, painted, inlaid, or otherwise decorated. Approximate date: 9th millennium B.C. to the 18th century A.D.

3. Tools and Weapons—This includes bows, arrows, knives, axe and adze handles, bow drills, and spears. Approximate date: 9th millennium B.C. to the 18th century A.D.

4. Ships and Other Vehicles—This includes whole or pieces used in

composing a ship, chariot, or any other vehicle. Approximate date: 7th millennium B.C. to the 18th century A.D.

*F. Glass*

1. Architectural Elements—This includes glass inlay and tesserae pieces from floor and wall mosaics, mirrors, and windows. Approximate date: 4th millennium B.C. to the 18th century A.D.

2. Vessels—This type includes containers for holding perfume or oil (*alabastron, unguanteria, aryballos*), wine jugs (*oinochoe*), other drinking, storage, and serving vessels of various shapes and sizes, and lighting objects such as lamps. Approximate date: 2nd millennium B.C. to the 18th century A.D.

3. Beads and Jewelry—Jewelry such as bracelets and rings (often twisted with colored glass), pendants, and beads in various shapes (*e.g.,* circular, globular), may be decorated with symbolic and/or floral motifs. This category also includes beads in various shapes including animal figures. Approximate date: 2nd millennium B.C. to the 18th century A.D.

*G. Plaster and Stucco*—This category includes various types of objects including containers from the pre-pottery Neolithic onward, column capitals, pedestals, wall murals or paintings and other architectural elements, and vessels and containers. These may be plain or painted and/or gilded. Approximate date: 9th millennium B.C. to the 18th century A.D.

*H. Textile*—These include linen, wool, cotton, and silk. This category includes clothing or clothing fragments, carpets, *sanjaks* (flags or banners), flag bags, wall hangings, blankets, and textiles used during religious practice. Approximate date: 9th millennium B.C. to the 18th century A.D.

*I. Leather, Parchment, and Paper*

1. Leather—This category includes bags, furniture parts, masks, shields, cases and containers for a variety of uses, sandals, clothing, and manuscript covers. There are also examples of religious and/or rare books written on leather pages.

2. Papyrus—Documents made from papyrus and written upon in ink. These are often rolled and/or fragmentary. Approximate date: 5th millennium B.C. to the 12th century A.D.

3. Parchment—Writing material made of animal skin and used to produce manuscripts including religious, liturgical, and scientific works. These may be single leaves or bound as books or scrolls. These may also have illustrations or illuminated paintings with gold and other colors. Approximate date: 3rd millennium B.C. to the 18th century A.D.

4. Paper—This includes manuscripts and individual pages thereof, written on paper and bound as books or scrolls. These may also have illustrations. Approximate date: 8th century to the 18th century A.D.

*J. Rock Art, Painting, and Drawing*

1. Rock Art—This type includes human-made markings on stone, cave walls, or rocks in open air. This type includes petroglyphs (carved into the rock surface); pictographs (painted); and earth figures (formed on the ground). Subject matter may include human and animal figures, deities, geometric designs, and religious signs and markings. Approximate date: 10th millennium B.C. to the 18th century A.D.

2. Wall Paintings—This category includes paintings from buildings and tombs. Several methods were used, such as wet-fresco and dry-fresco, and the paintings may be applied to plaster, wood, or stone. Types include simple applied color, bands and borders, landscapes, scenes of people and/or animals in natural or built settings, and religious themes. Approximate date: 7th millennium B.C. to the 18th century A.D.

3. Panel Paintings (Icons)—An icon is a work of art for religious devotion, normally depicting saints, angels, or other religious figures. These are painted on a wooden panel, often for inclusion in a wooden screen (iconostasis), or else painted onto ceramic panels. May be partially covered with gold or silver, sometimes encrusted with precious or semi-precious stone. Approximate date: 4th century A.D. to the 18th century A.D.

*K. Mosaics*—May be a combination of small three-dimensional pieces of colored stone or glass (tesserae) to create motifs such as geometric shapes, mythological scenes, floral or animal designs, natural motifs such as landscapes, and daily chores. The *opus sectile* technique is also used. These were generally applied to walls, ceilings, or floors. Approximate date: 7th century B.C. to the 18th century A.D.

**II. Ethnological Material**

Ethnological material covered by the agreement includes architectural elements, funerary objects, ritual and ceremonial objects, paintings, written records, and military material that contribute to the knowledge of the origins, development, and history of the Turkish people. This includes objects from the 1st c. A.D. starting in the Roman Empire, through the Byzantine, Seljuk, Beyliks, and Ottoman periods, and ending in A.D. 1923, with the foundation of the Republic of Turkey.

A. *Architectural Elements*—This category includes architectural elements and decoration from religious and public buildings in all materials. These buildings have distinctive characteristics described below. Examples of architectural elements covered in the Agreement include, but are not limited to, the following objects:

1. Structural and Decorative Architectural Elements—This category includes material from religious or public buildings in stone, ceramic, plaster, wood, and other organic elements, which includes blocks; columns, capitals, bases, lintels, jambs, friezes, and pilasters; panels, doors, door frames, and window fittings; altars, prayer niches (mihrab), screens, iconostasis, fountains, ceilings, tent poles, and carved and molded brick. Metal elements are primarily in copper, brass, lead, and alloys, and may include doors, door fixtures, lathes, finials, chandeliers, screens, and sheets to protect domes. Glass may be incorporated into either structural or decorative elements. This category also includes relief and inlay sculpture, including appliques and plaques that may have been part of a building. May be plain, molded, carved, or inscribed. Decorative motifs may be incised or in high relief.

2. Tiles—Ceramic tiles were often used for adorning walls, roofs, and floors of mosques, masjids, mausoleums, shrines, and palaces. During the Seljuk Period, subject matter included star- and cross-shaped tiles with creatures such as harpies, sphinxes, and double-headed eagles. Human and animal figures were also common, as well as natural motifs such as the tree of life, scrolling branches with pomegranates, floral and geometric patterns, and inscriptions. During the Ottoman Period, subject matter included mainly floral motifs; the *saz* style motif with composite flowers, smaller rosettes, and *saz* leaves was also common. This type also includes glazed bricks.

3. Mosaics—May be a combination of small three-dimensional pieces of colored stone or glass (tesserae) to create motifs such as geometric shapes, floral or animal designs, natural motifs such as landscapes, and scenes of religious or historical events. These were generally applied to walls, ceilings, or floors.

B. *Funerary Objects*—This category includes objects related to funerary rites and burials in all materials. Examples of funerary objects covered in the

Agreement include, but are not limited to, the following objects:

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

2. Inscriptions, Memorial Stones, Epitaphs, and Tombstones—This category includes inscribed funerary objects, primarily slabs in marble and ceramic; most frequently engraved with Ottoman Turkish, Turkish, Arabic, Greek, Armenian, or Hebrew. These may also have associated sculpture in relief or in the round.

3. Funerary Offerings—This category includes objects in all materials; shrouds and body adornment such as clothing, jewelry, and accessories; idols, figurines, vessels, beads, weapons, or other ritual or ceremonial offerings; and writing implements, books, and manuscripts.

C. *Ritual and Ceremonial Objects*—This category includes objects for use in religious services (Christian, Islamic, Jewish, and others) or for imperial use by the state (Byzantine Empire, Seljuk Empire, Anatolian Beyliks, and Ottoman Empire). Examples of ritual and ceremonial objects covered in the Agreement include, but are not limited to, the following objects:

1. Religious Objects—This category includes objects in all materials such as lamps, libation vessels, pitchers, chalices, plates, censers, candelabra, crosses and cross pendants, pilgrim flasks, tabernacles, boxes and chests, carved diptychs, liturgical spoons, Kiddush cups, bells, ampoules, Torah pointers and finials, prayer beads, icons, amulets, and Bektashi surrender stones. This type also includes reliquaries and reliquary containers, which may or may not include human remains. Often engraved or otherwise decorated.

2. Imperial—This category includes objects in all materials, such as ceremonial garments, clothing emblematic of imperial position, and other accessories thereof such as shoes, headdresses and hats, belts, and jewelry; objects of imperial office such as scepters, staffs, insignia, relics, and monumental boxes, trays, and containers; flags, flagstaffs, and *alem* (finials); stamps, seals, and writing implements for official use by the state; tapestries, or other representations of the imperial court; musical instruments; and boats, chariots, and other forms of official transportation, and parts thereof.

3. Furniture—This category includes objects primarily in stone or wood, including altars, tables, platforms, pulpits, fonts, screens, thrones, minbar, lecterns, desks, and other types of furniture used for religious or official imperial purpose.

4. Textiles—Generally in linen, silk, and wool. This category includes textiles and fragments from religious contexts including garments such as tapestries, hangings, prayer rugs and carpets, shrine covers, altar cloths; clothing and accessories such as robes, vestments, kaftans, turbans, hats, and talismanic shirts. Commonly decorated with embroidered designs including religious, floral, and geometric motifs. This category also includes imperial objects such as clothing including vestments and robes; flags and flag bags (*sanjaks*); and carpets and tapestries.

5. Musical Instruments—This category includes instruments important for religious or imperial ceremonies such as a *baglama* or *saz, tambur, rebab,* and *ud* (string instruments); harps; *ney* (reed flute); pipes; whistles; *kudum* (small double drum); *kos* (drum); *kanun* (zither); trumpets and bugles; and cymbals.

D. *Paintings*—This category includes works of paint on plaster, wood, or ceramic from religious or public contexts. Paintings from these periods provide information on social and religious history of the people of Turkey that may be absent from written records. Examples of paintings include, but are not limited to:

1. Wall Paintings—This category includes paintings on various types of plaster, which generally portray religious images and/or scenes of Biblical events. Types may also include simple applied color, bands and borders, animal, floral, and geometric motifs.

2. Panel Paintings (Icons)—Icons are smaller versions of the scenes on wall paintings, and may be partially covered with gold or silver, sometimes encrusted with semi-precious or precious stones and are usually painted on a wooden panel, often for inclusion in a wooden screen. May also be painted on ceramic.

3. Works on Paper—Paintings may be on papyrus, parchment, and paper. Images depicted may include religious scenes, representations of imperial court life, simple applied color, bands and borders, animal, floral, and geometric motifs.

E. *Written Records*—This category includes written records of religious, political, or scientific importance, including, but not limited to, the following. Works may be on papyrus, parchment, paper, or leather. Papyrus documents are often rolled and/or fragmentary. Parchment and paper documents may be single leaves or bound as scrolls or books. They may have illustrations or illuminated paintings with gold or other colors. There are also examples of Qurans and other religious and/or rare books written on leather pages. This category includes boxes for books or scrolls made of wood or other organic materials, and book or manuscript covers made of leather, textile, or metal.

F. *Military Material*—This category includes imperial military objects from the Byzantine, Seljuk, Beyliks, and Ottoman periods, in all materials.

1. Uniforms—Uniform clothing either meant to be worn under armor or without, is usually made of textile or leather. This includes clothing emblematic of military position, and other accessories thereof such as shoes, headdresses and hats, belts, and jewelry.

2. Weapons and Armor—These are often in iron, steel, or other metal. This category includes arrows, daggers, swords, saifs, scimitars, other blades with or without sheaths, spears, and pre-industrial firearms and cannon; may be for use in combat or ceremonial. May be inlaid with gemstones, embellished with silver or gold, or engraved with floral or geometric motifs. Grips or hilts may be made of metal, wood, or semi-precious stones such as agate, or bound with leather. Armor may consist of small metal scales, originally sewn to a backing of textile or leather. This type also includes helmets, body armor, shields, and horse armor. Other objects may be made of leather, including archer's bags, shields, and masks. This category also includes: Auxiliary objects such as powder horns and belts; military standards; and boats, chariots, or other means of imperial military transportation.

3. Musical Instruments—These instruments were used to encourage and direct military operations. This category includes pipes and other wind instruments, trumpets and bugles, and drums and other percussion instruments such as the *çevgan* (a long-handled rattle with bells and chimes).

**Inapplicability of Notice and Delayed Effective Date**

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

**Regulatory Flexibility Act**

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

**Executive Order 12866**

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

**Signing Authority**

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

**List of Subjects in 19 CFR Part 12**

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

**Amendment to the CBP Regulations**

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

## PART 12—SPECIAL CLASSES OF MERCHANDISE

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

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

* * * * *

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

* * * * *

■ 2. In § 12.104g, the table in paragraph (a) is amended by adding Turkey to the list in alphabetical order to read as follows:

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

(a) * * *

| State party | Cultural property | Decision No. |
|---|---|---|
| * | * | * |
| Turkey | Archaeological material representing Turkey's cultural heritage ranging from approximately 1,200,000 B.C. to A.D. 1770, and ethnological material ranging from the 1st century A.D. to A.D. 1923. | CBP Dec. 21–09. |

* * * * *

Troy A. Miller, the Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, is delegating the authority to electronically sign this notice document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

**Robert F. Altneu,**

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

Approved: June 11, 2021.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 2021–12646 Filed 6–15–21; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2021–0356]**

**RIN 1625–AA00**

## Safety Zone; 4th of July Boat Parade, Savannah River, Savannah, GA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters on the Savannah River from the Elba Island Cut Jetty Light to the Eugene Talmage Memorial Bridge, Savannah, GA. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a boat parade. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Savannah or a designated representative.

**DATES:** This rule is effective on July 4, 2021 from 2 p.m. through 5 p.m.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0356 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Alex McConnell, of the Marine Safety Unit Savannah Office of Waterways Management, Coast Guard, at telephone 912–652–4353, extension 240, or via email at *MSUSavannah-WWM@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

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

### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and prompt action is needed to respond to the potential safety hazards associated with the Savannah boat parade. The Coast Guard received initial notice of the event on April 26, 2021 regarding the event beginning on July 4, 2021, but did not have final details to prepare a regulation until May 25, 2021. The event would begin before the rulemaking process would be completed. Because of the dangers posed by the parade, a safety zone is necessary to provide for the safety of persons, vessels, and the marine environment in the event area. It is impracticable and contrary to the public interest to delay promulgating this rule because the rule is necessary to protect personnel, vessels, and the marine

environment from potential hazards created by the boat parade.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the boat parade.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port (COTP) Savannah has determined that potential hazards associated with the boat parade starting July 4, 2021, will be a safety concern for anyone on the Savannah River from the Elba Island Cut Jetty Light to the Eugene Talmage Memorial Bridge, Savannah, GA. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the parade is underway.

## IV. Discussion of the Rule

This rule establishes a safety zone from 2 p.m. until 5 p.m. on July 4, 2021. The safety zone will cover all navigable waters from the Savannah River from the Elba Island Cut Jetty Light to the Eugene Talmage Memorial Bridge, Savannah, GA. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the bridge is being repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, duration, and scope of the safety zone. The safety zone is limited in duration and size as it will be enforced for only three hours and will cover all navigable waters from the Savannah River from the Elba Island Cut Jetty Light to the Eugene Talmage Memorial Bridge, Savannah, GA. The zone is limited in scope as vessels and persons seeking to transit through the regulated area may seek authority from the COTP or a designated representative. The Coast Guard will provide notification of the regulated area to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners via VHF–FM marine channel 16, and a Marine Safety Security Bulletin.

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 3 hours that will prohibit entry on the Savannah River

from the Elba Island Cut Jetty Light to the Eugene Talmage Memorial Bridge. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

*G. Protest Activities*

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

**List of Subjects in 33 CFR Part 165**

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

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

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

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

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

■ 2. Add § 165.T07–0356 to read as follows:

**§ 165.T07–0356 Safety Zone; 4th of July Boat Parade, Savannah River, Savannah, GA.**

(a) *Location.* The following area is a safety zone: All waters of the Savannah River, from surface to bottom, from the Elba Island Cut Jetty Light to the Eugene Talmage Memorial Bridge.

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

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

(2) Persons or vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact COTP Savannah by telephone at (912) 652–4353, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP Savannah or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Savannah or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, Marine Safety Information Bulletins, and on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 2:00 p.m. until 5:00 p.m., on July 4, 2021.

Dated: June 3, 2021.

**S.A. Richardson,**

*Lieutenant Commander, U.S. Coast Guard, Acting, Captain of the Port.*

[FR Doc. 2021–12582 Filed 6–15–21; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 49 and 52

**[EPA–R09–OAR–2021–0018; FRL–10024–15–Region 9]**

## Rescission of the Source-Specific Federal Implementation Plan for Navajo Generating Station, Navajo Nation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to rescind the federal implementation plan (FIP) that regulates emissions from the Navajo Generating Station (NGS), a coal-fired power plant that was located on the reservation lands of the Navajo Nation near Page, Arizona. NGS permanently ceased operations on November 18, 2019, and the Clean Air Act operating permit for this facility has expired.

**DATES:** This rule will be effective on July 16, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0018. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Anita Lee, EPA Region IX, (415) 972–3958, *lee.anita@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

**Table of Contents**



### I. Background

On March 16, 2021, the EPA proposed to rescind the FIP for NGS that we promulgated on October 3, 1991 (''1991 FIP''), March 5, 2010 (''2010 FIP''), and August 8, 2014 (''2014 FIP'').[1] The provisions of the 1991 action are codified in the Code of Federal Regulations (CFR) at 40 CFR 52.145(d), the provisions of the 2010 action are codified at 40 CFR 49.5513(a) through (i), and provisions of the 2014 action are codified at 40 CFR 49.5513(j). We refer collectively to the provisions from the 1991, 2010, and 2014 actions as the ''FIP'' or the ''NGS FIP.'' The NGS FIP includes federally enforceable emissions limitations that apply to the fossil fuel-fired steam generating equipment, designated as Units 1, 2, and 3, equipment associated with the coal and ash handling, and the two auxiliary steam boilers at NGS. These emissions limitations apply to emissions of particulate matter (PM), opacity, sulfur dioxide ($SO_2$), and oxides of nitrogen ($NO_X$). The EPA is proposing to rescind the NGS FIP and remove the provisions

[1] The EPA's proposed rule is available at 86 FR 14392 (March 16, 2021). The provisions of the FIP for NGS were published at 56 FR 50172 (October 3, 1991), 75 FR 10174 (March 5, 2010), and 79 FR 46552 (August 8, 2014).

of the FIP from 40 CFR 52.145(d) and 40 CFR 49.5513.

NGS was a coal-fired power plant that ceased operation in 2019, located on the reservation lands of the Navajo Nation, just east of Page, Arizona, and approximately 135 miles north of Flagstaff. NGS was co-owned by several entities and operated by Salt River Project Agricultural Improvement and Power District (SRP).[2] The facility consisted of three electric generating units, each with a capacity of 750 megawatts (MW) net generation, with a total capacity of 2250 MW. Operations at the facility produced air pollutant emissions, including emissions of $SO_2$, $NO_X$, and PM. Pollution control equipment at NGS included wet flue gas desulfurization units for $SO_2$ and PM removal, electrostatic precipitators for PM removal, and low-$NO_X$ burners with separated over-fire air to reduce $NO_X$ formation during the combustion process. Had the facility not ceased operations, the owner or operator of NGS would have taken additional steps by December 31, 2019 to reduce emissions of $NO_X$, pursuant to the requirements of the 2014 FIP.

The EPA's proposed action published on March 16, 2021 described the EPA's authority to promulgate a FIP in Indian country, provided an historical overview of the NGS FIP actions, and described the EPA's basis for our proposed action to rescind the NGS FIP, including consideration of whether the rescission of the FIP would interfere with any Clean Air Act requirements. Briefly, because NGS has permanently ceased operation and all equipment subject to the NGS FIP is no longer operational, and because the facility no longer holds a valid CAA title V permit to operate, the EPA proposed to rescind the FIP for NGS at 40 CFR 52.145(d) and 40 CFR 49.5513. Please see our proposed rule for additional details.

## II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that ended on April 15, 2021. During this period, the EPA received two comments, one from a private individual and the other from SRP, both in support of our proposed action to rescind the FIP for NGS.[3] We are not providing responses to these comments because they express support for our proposed action.

## III. Final Action

For the reasons discussed in detail in the proposed rule and summarized herein, the EPA is taking final action to rescind the FIP for NGS at 40 CFR 52.145(d) and 40 CFR 49.5513.

## IV. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget for review. This rule applies to only one facility and is therefore not a rule of general applicability.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not contain any information collection activities.

### *C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

### *D. Unfunded Mandates Reform Act (UMRA)*

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

### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

### *F. Executive Order 13175: Coordination With Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175. The Navajo Generating Station is located on the reservation lands of the Navajo Nation, and the EPA recognizes there has been significant community and tribal interest in this facility. The facility has already permanently ceased operations and this action simply rescinds previously promulgated requirements applicable to this shuttered facility. In addition, the Navajo Nation EPA has already determined that NGS no longer has the right to operate. This action to rescind the NGS FIP will not have substantial direct effects on any 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. Thus, Executive Order 13175 does not apply to this action. However, on January 7, 2021, we invited the Navajo Nation to consult on this proposed action.[4] The Navajo Nation did not request consultation on this FIP rescission.

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

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

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

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

### *I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

[2] The original participants in NGS were the United States Bureau of Reclamation, SRP, Arizona Public Service Company, Tucson Electric Company, NV Energy, and the Los Angeles Department of Water and Power (LADWP). SRP, serves as the facility operator. Prior to the permanent closure of NGS, SRP acquired the LADWP participant share in NGS.

[3] The comments are available in the docket for this rulemaking at *https://www.regulations.gov/document/EPA-R09-OAR-2021-0018-0001/comment.*

[4] Letter dated January 7, 2021 from Elizabeth J. Adams, EPA Region IX, to Jonathan Nez, President of the Navajo Nation, Re: Invitation to Consult on a Request from the Salt River Project to Rescind the Federal Implementation Plan for the Navajo Generating Station.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. The facility has already permanently ceased operations and this action simply rescinds previously promulgated requirements applicable to this shuttered facility. Therefore, the EPA considers this action to have no impacts to human health and the environment, and to have no potential disproportionately high and adverse effects on minority, low-income, or indigenous populations.

*K. The Congressional Review Act*

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

*L. Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects**

*40 CFR Part 49*

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Visibility.

**Michael S. Regan,**

*Administrator.*

For reasons discussed in the preamble, EPA amends Chapter I, title 40, of the Code of Federal Regulations as follows:

## PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

■ 1. The authority citation for part 49 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

## SUBPART L—IMPLEMENTATION PLANS FOR TRIBES—REGION IX

### § 49.5513 [Removed and Reserved]

■ 2. Remove and reserve § 49.5513.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 3. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

## Subpart D—Arizona

### § 52.145 [Amended]

■ 4. Section 52.145 amended by removing and reserving paragraph (d).

[FR Doc. 2021–12574 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2020–0542; FRL–10024–89-Region 5]**

## Air Plan Approval; Illinois; Volatile Organic Material Definition Update

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Illinois State Implementation Plan (SIP). The revision is amending the Illinois Administrative Code (IAC) by updating the definition of volatile organic material (VOM) and volatile organic compounds (VOC) to exclude (Z) -1,1,1,4,4,4-hexafluorobut-2-ene. This revision is consistent with an EPA rulemaking in 2018, which exempted this compound from the Federal definition of VOC on the basis that the compound makes a negligible contribution to tropospheric ozone formation. EPA proposed to approve this action on February 11, 2021 and received no adverse comments.

**DATES:** This final rule is effective on July 16, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2020–0542. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Andrew Lee, Physical Scientist, at (312) 353–7645 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Andrew Lee, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–7645, *lee.andrew.c@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

### I. Background Information

On February 11, 2021, EPA proposed to approve a revision to the Illinois SIP by updating the definition of volatile organic material or volatile organic compound at 35 IAC 211.7150 to exclude (Z)-1,1,1,4,4,4-hexafluorobut-2-ene. *See* 86 FR 9307. This revision is consistent with an EPA rulemaking exempting this compound from the Federal definition of VOC at 40 CFR 51.100(s) due to its negligible contribution to tropospheric ozone formation. *See* 83 FR 61127 (Nov. 28, 2018). An explanation of the Clean Air Act (CAA) requirements, a detailed

analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM) and will not be restated here. The public comment period for this proposed rule ended on March 15, 2021. All the comments received are included in the docket for this action.

During the comment period, EPA received one comment that requested EPA to consider the global warming potential of chemicals for future actions of this type. We do not consider the comment to be germane or relevant to this action and therefore not adverse to this action. The comment lacks the required specificity to the proposed SIP revision and the relevant requirements of CAA section 110. Moreover, the comment does not address a specific regulation or provision, nor does it suggest a change in, or recommend a different action on, the SIP submission from what EPA proposed. Therefore, the comment requires no further response, and we are finalizing our action as proposed.

## II. Final Action

EPA is approving the revision to the Illinois SIP at 35 IAC 211.7150 by removing 1,1,1,4,4,4-hexafluorobut-2-ene from the definition of VOM and VOC in accordance with the Illinois submittal on October 20, 2020.

## III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Illinois Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

[1] 62 FR 27968 (May 22, 1997).

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 9, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.720, the table in paragraph (c) is amended by revising the entry ''211.7150'' to read as follows:

### § 52.720 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

| Illinois citation | Title/subject | State effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * | * | * | * | * |
| **Part 211: Definitions and General Provisions** | | | | |
| * | * | * | * | * |
| **Subpart B: Definitions** | | | | |
| * | * | * | * | * |
| 211.7150 ..... | Volatile Organic Material (VOM) or Volatile Organic Compound (VOC). | 10/20/2020 | 6/16/2021, [INSERT **Federal Register** CITATION]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2021–12553 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2020–0387; FRL–10024–93–Region 5]**

## Air Plan Approval; Indiana; Emissions Reporting Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Indiana State Implementation Plan (SIP) submitted on July 16, 2020, by the Indiana Department of Environmental Management (IDEM). The revision incorporates changes to Indiana's existing emission reporting rule to be consistent with the emissions statement requirements in the Clean Air Act (CAA). The CAA requires stationary sources in ozone nonattainment areas to submit annual emissions statements. The revision to the rule extends the requirements in Indiana's emission reporting rule to Clark and Floyd counties, which were designated nonattainment under the 2015 ozone National Ambient Air Quality Standard (NAAQS) in 2018, and removes the requirement for Lawrenceburg Township in Dearborn County and to LaPorte County, because these areas are currently designated attainment for the 1997, 2008 and 2015 ozone standards.

**DATES:** This final rule is effective on July 16, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2020–0387. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

### I. What is being addressed in this document?

This rule acts on the July 16, 2020 request from the IDEM to incorporate revisions to Indiana's emission reporting rule, 326 IAC 2–6. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in EPA's notice of proposed rulemaking (NPRM), dated February 11, 2021 (86 FR 9036), and will not be restated here.

### II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on March 15, 2021. We received three comments during the comment period. The full comments are in the rulemaking docket, see Addresses for details on accessing the docket.

Two of the comments received were supportive of EPA's action. Comments from a third individual expressed several issues of concern not addressed in EPA's proposed rulemaking. Those comments are summarized and addressed below.

*Comment:* The commenter asserted that the decision to remove reporting requirements for Lawrenceburg Township and LaPorte County could have permanent impacts on Indiana's citizens. IDEM should reconsider removing the two areas from attainment.

*Response:* Because Lawrenceburg Township and LaPorte County have demonstrated attainment with the ozone NAAQS, EPA designated them as attainment areas under Section 107(d) of the CAA on June 4, 2018 (83 FR 25776). Consequently, section 182(a)(3)(B) of the CAA authorizes IDEM to remove the emissions reporting requirements for those two areas. The commenter's suggestion that IDEM should remove the ozone attainment designation status for LaPorte County and Lawrenceburg

Township in Dearborn County is outside the scope of this rulemaking.

*Comment:* The commenter noted that the Federal website, Airnow.com, shows acceptable levels of ozone in all the counties involved. The commenter expressed concern about ozone's adverse biophysical impact, especially in those with chronic respiratory conditions, but acknowledged that those impacts of this rulemaking should remain minimal.

*Response:* EPA agrees that ozone causes adverse health effects. As noted above, EPA has designated both Lawrenceburg Township (Dearborn County) and LaPorte County as areas that have attained the applicable NAAQS for ozone.

*Comment:* The commenter expressed concern that the proposal did not consider the potential for ozone levels rising in attainment areas and the potential repercussions of not recording ozone levels. The commenter further stated that, if the State discontinues recording ozone emission rates and they rise beyond a safe level, this could cause negative economic impacts and endanger the health of residents.

*Response:* This action addresses the requirement for stationary sources to report emissions of volatile organic compounds (VOC) and oxides of nitrogen ($NO_X$). It does not affect Indiana's requirements with respect to ozone monitoring. Indiana remains obligated to meeting ozone monitoring requirements and to continue to quality-assure monitoring data in accordance with 40 CFR part 58, and to enter all data into EPA's air quality system (AQS) in accordance with Federal guidelines. EPA and IDEM continue to monitor ozone to ensure concentrations remain below the NAAQS.

*Comment:* The commenter claimed that not requiring certain areas to report ozone emissions can lead to ignored regulations and increased pollution. The commenter further noted that, even if an area has good air quality, it is still our responsibility to prevent ozone levels from becoming worse. The commenter suggested that all municipalities involved continue to report ozone levels as if they were not in attainment of the ozone standard.

*Response:* As discussed previously, this action does not affect Indiana's requirements with respect to ozone monitoring. Indiana remains obligated to meet ozone monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into EPA's AQS in accordance with Federal guidelines. Further, this does not relieve sources in any of the areas from existing controls on ozone precursors. In addition, while sources in Lawrenceburg Township in Dearborn County and LaPorte County are no longer subject to the emissions reporting requirements of 326 IAC 2–6, all areas in the state remain subject to EPA's Air Emission Reporting Rule (AERR) under 40 CFR 51, subpart A. The AERR requires states to collect and report annual emissions directly to EPA, including emissions of all criteria pollutants (and/or precursors) from all sources (point, non-point, on-road, and off-road mobile source types) regardless of an area's attainment status.

*Comment:* The commenter asserted that ozone levels do not currently impact the economies of the counties mentioned in this action. The commenter expressed the concern, however, that while steel mills play a large part in Indiana's economy, providing jobs and stability, they also contribute to pollution that threatens Indiana's citizens. The commenter further asserted that nitrogen dioxide and ozone pollution cost billions of dollars and lead to millions of premature deaths; and that, by taking precautionary steps, these costs will be reduced in the long run.

*Response:* These comments address subjects outside the scope of our proposed action. EPA notes, however, that the commenter does not explain (or provide a legal basis for) how the final rule should differ in any way from the proposed action. That being said, it should be reiterated that both EPA and IDEM continue to monitor ozone to ensure concentrations remain below the NAAQS.

## III. What action is EPA taking?

EPA is approving the revision to the emission reporting rule, 326 IAC 2–6–1, into Indiana's SIP, as submitted on July 16, 2020, to address the CAA emission statement requirement in section 182(a)(3)(B).

## IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

[1] 62 FR 27968 (May 22, 1997).

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 9, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.770, the table in paragraph (c) is amended by revising the entry for ''2–6–1'' under ''Article 2. Permit Review Rules'', ''Rule 6. Emission Reporting'', to read as follows:

**§ 52.770 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED INDIANA REGULATIONS

| Indiana citation | Subject | Indiana effective date | EPA approval date | Notes |
|---|---|---|---|---|
| * | * | * | * | * |
| **Article 2. Permit Review Rules** | | | | |
| * | * | * | * | * |
| **Rule 6. Emission Reporting** | | | | |
| 2–6–1 ..... | Applicability .... | 4/24/2020 | 6/16/2021, [INSERT **FEDERAL REGISTER** CITATION]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2021–12620 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2020–0729; FRL–10024–97–Region 5]**

## Air Plan Approval; Michigan; Part 9 Miscellaneous Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to Michigan's State Implementation Plan (SIP). The submittal, by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on December 18, 2020, incorporates administrative changes to Michigan's Air Pollution Control Rules, Part 9, ''Emissions Limitations and Prohibitions—Miscellaneous''. This revision supports Michigan's effort to consolidate all of the approved adoption by reference rules into Part 9.

**DATES:** The final rule is effective July 16, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2020–0729. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

## I. What is being addressed in this document?

This rule approves EGLE's December 18, 2020 submission to revise Michigan's Air Pollution Control Rules, Part 9. Specifically, the State requested that we approve a revision to R 336.1902, Adoption of standards by reference. The background for this action is discussed in detail, and EPA's reasons for proposing approval were provided in EPA's notice of proposed rulemaking (NPRM), dated March 25, 2021 (86 FR 15837), and will not be restated here.

## II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on April 26, 2021. We received no comments on the proposed rule.

## III. What action is EPA taking?

EPA is approving the revision to Part 9 into Michigan's SIP, as submitted on December 18, 2020.

## IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Michigan Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Ozone, Volatile organic compounds.

Dated: June 9, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. In § 52.1170, the table in paragraph (c) is amended by revising the entry for

[1] 62 FR 27968 (May 22, 1997).

''R 336.1902'' under the heading ''Part 9. Emission Limitations and Prohibitions—Miscellaneous'' to read as follows:

**§ 52.1170 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED MICHIGAN REGULATIONS

| Michigan citation | Title | State effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * | * | * | * | * |
| **Part 9. Emission Limitations and Prohibitions—Miscellaneous** | | | | |
| R 336.1902 | Adoption of standards by reference | 11/18/2018 | 6/16/2021, [INSERT **FEDERAL REGISTER** CITATION]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2021–12556 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2020–0468; FRL–10024–91–Region 5]**

### Air Plan Approval; Ohio; Lead

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), revisions to lead emissions rules in the Ohio Administrative Code (OAC). EPA is approving the removal of four lead emissions rules from the Ohio State Implementation Plan (SIP). Three of the lead emissions rules apply to Master Metals, Inc., a secondary lead smelter that has permanently shut down. The remaining lead emissions rule duplicates a provision in another OAC chapter that is approved into the Ohio SIP. EPA proposed to approve this action on March 12, 2021 and received no adverse comments.

**DATES:** This final rule is effective on July 16, 2021

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2020–0468. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886–6524 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6524, *rau.matthew@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

#### I. Background Information

On March 12, 2021, EPA proposed to approve the removal of four lead emissions rules in OAC Chapter 3745–71 from the Ohio SIP (86 FR 14061). Three of the lead emissions rules applied to Master Metals, Inc., a secondary lead smelter facility in Cleveland, Ohio, which has permanently shut down. The remaining lead emissions rule applied to the air quality sampling requirements in OAC 3745–71–03. This rule was removed because these requirements are consolidated into OAC rule 3745–25–02, which is approved into the Ohio SIP. The removal of the four lead emissions rules result in no OAC Chapter 3745–71 rules remaining in the Ohio SIP. An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for this proposed rule ended on April 12, 2021.

During the comment period, EPA received one comment asking some general questions about the limits. The comment received is included in the docket for this action.

We do not consider the comment as adverse to this action. The comment lacks the required specificity to the proposed SIP revision and the relevant requirements of CAA section 110. Moreover, the comment does not recommend a different action on the SIP submission from what EPA proposed. Accordingly, we are finalizing our action as proposed.

#### II. Final Action

EPA is approving the removal of OAC rules 3745–71–01, 3745–71–03, 3745–71–05, and 3745–71–06 from the Ohio SIP.

#### III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Ohio Regulations from the Ohio SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the SIP generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: June 9, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### § 52.1870 [Amended]

■ 2. In § 52.1870, the table in paragraph (c) is amended by removing the heading ''Chapter 3745–71 Lead Emissions'' and the entries for ''3745–71–01'', ''3745–71–03'', ''3745–71–05'', and ''3745–71–06''.

[FR Doc. 2021–12554 Filed 6–15–21; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2020–0589; FRL–10024–21–Region 9]**

## Air Plan Approval; Arizona; Stationary Sources; New Source Review Updates

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Arizona Department of Environmental Quality's (ADEQ) portion of the Arizona State Implementation Plan (SIP) that were submitted to the EPA by the ADEQ. These revisions concern the ADEQ's SIP-approved rules for the issuance of New Source Review (NSR) permits for stationary sources under the Clean Air Act (CAA or Act). This action updates the ADEQ's NSR rules in the Arizona SIP and corrects the remaining deficiencies in the ADEQ's NSR program that we identified as the basis for our limited disapprovals in final rulemaking actions in 2015 and 2016. Additionally, we are finding that the ADEQ's SIP-approved NSR permitting program meets requirements for visibility protection for major stationary sources under the Act and are removing the Federal Implementation Plans (FIPs) for the ADEQ related to these visibility protection requirements.

**DATES:** This rule is effective on July 16, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2020–0589. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other

than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Lisa Beckham, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3811 or by email at *beckham.lisa@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

**Table of Contents**



**Definitions**

For this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(iii) The initials *Ag BMP* mean or refer to the State of Arizona's Agricultural Best Management Practices program.

(iv) The initials *ARS* mean or refer to the Arizona Revised Statutes.

(v) The initials *CBI* mean or refer to confidential business information.

(vi) The initials *CFR* mean or refer to the Code of Federal Regulations.

(vii) The initials *CO* mean or refer to carbon monoxide.

(viii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(ix) The initials *FIP* mean or refer to Federal Implementation Plan.

(x) The initials *MMBtu/hr* mean or refer to million British thermal units per hour.

(xi) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(xii) The initials *NESHAP* mean or refer to the National Emission Standards for Hazardous Air Pollutants.

(xiii) The initials *NNSR* mean or refer to Nonattainment New Source Review.

(xiv) The initials $NO_X$ mean or refer to oxides of nitrogen.

(xv) The initials *NSPS* mean or refer to New Source Performance Standards.

(xvi) The initials *NSR* mean or refer to New Source Review.

(xvii) The initials $PM_{2.5}$ mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 2.5 micrometers, or fine particulate matter.

(xviii) The initials $PM_{10}$ mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers.

(xix) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(xx) The initials *SER* mean or refer to significant emission rate.

(xxi) The initials *SIP* mean or refer to State Implementation Plan.

(xxii) The initials $SO_2$ mean or refer to sulfur dioxide.

(xxiii) The words *State* or *Arizona* mean the State of Arizona, unless the context indicates otherwise.

(xxiv) The initials *TSD* mean or refer to the technical support document for this action unless the context indicates otherwise.

## I. Proposed Action

On December 23, 2020 (85 FR 83868), the EPA proposed to approve revisions to the ADEQ portion of the Arizona SIP consisting of several rule revisions and demonstrations submitted by the ADEQ related to the ADEQ's CAA NSR permitting program.

First, we proposed to approve a July 22, 2020 SIP submittal from the ADEQ that contains rule revisions and other demonstrations primarily intended to correct deficiencies in the ADEQ's minor NSR program (referred to hereinafter as the ''2020 Minor NSR submittal''). The deficiencies being corrected by the 2020 Minor NSR submittal were identified in a November 2, 2015 [1] final limited approval and limited disapproval action by the EPA (referred to hereinafter as the EPA's ''2015 NSR action'').[2] Our 2015 NSR action was the result of an extensive review of the ADEQ's NSR program, in response to a comprehensive NSR program update submitted by the ADEQ to the EPA in a 2012 SIP revision (referred to hereinafter as the ''2012 NSR SIP submittal''). The 2012 NSR SIP submittal represented the ADEQ's first comprehensive update to its SIP-approved NSR program since the 1980s. Our review of the 2012 NSR SIP submittal for compliance with CAA requirements therefore included all aspects of the ADEQ's minor NSR, Prevention of Significant Deterioration (PSD), and nonattainment NSR (NNSR) permitting programs, including NSR-related visibility requirements for major stationary sources. In a May 4, 2018 final rule,[3] we approved revisions to the ADEQ's NSR program, submitted to the EPA in 2017, that corrected a large portion of the deficiencies identified in our 2015 NSR action, primarily related to the PSD and NNSR programs (referred to hereinafter as the ''2018 Major NSR action''). Thus, the 2020 Minor NSR submittal that is the subject of our present action addresses the remaining deficiencies from our 2015 NSR action.

Second, our December 23, 2020 proposed action also included our proposed approval of a March 29, 2019 SIP submittal, and a January 14, 2020 supplemental submittal, from the ADEQ. These two submittals are intended to resolve an ADEQ NNSR program deficiency related to the permitting of ammonia as a precursor to $PM_{2.5}$ in the West Central Pinal and Nogales $PM_{2.5}$ nonattainment areas (the March 29, 2019 submittal and January 14, 2020 supplement are collectively referred to hereinafter as the ''Ammonia $PM_{2.5}$ NSR submittal''). In a June 22, 2016 [4] final limited disapproval rule action, we had identified additional deficiencies in the ADEQ's NNSR program related to $PM_{2.5}$ precursors (referred to hereinafter as the EPA's ''2016 $PM_{2.5}$ precursor action''). In our 2018 Major NSR action, in addition to approving rule revisions to the ADEQ's NSR program, the EPA conditionally approved [5] the ADEQ's NNSR program pursuant to CAA section 110(k)(4) solely with respect to ammonia as a precursor to $PM_{2.5}$ under section 189(e) of the Act.[6] We found in our 2018 Major NSR action that the ADEQ's SIP revisions otherwise resolved the deficiencies identified in our 2016 $PM_{2.5}$ precursor action.[7] In addition to resolving the deficiency that was the basis for our conditional approval for ammonia as a precursor to $PM_{2.5}$ under CAA section 189(e), the Ammonia $PM_{2.5}$ NSR submittal also includes other

[1] 80 FR 67319 (Nov. 2, 2015).

[2] In the 2015 NSR action, we also finalized other actions, including a partial disapproval related to the fine particulate matter ($PM_{2.5}$) significant monitoring concentration, and limited approvals, without corresponding limited disapprovals, related to section 189(e) of the Act.

[3] 83 FR 19631 (May 4, 2018).

[4] 81 FR 40525 (June 22, 2016).

[5] 83 FR 19631, 19634. The conditional approval was based upon a December 6, 2017 letter from the State committing to submit a SIP revision to the EPA consisting of rule revisions and/or demonstrations that would correct the deficiencies related to ammonia as a precursor to $PM_{2.5}$ under the NNSR program requirements in CAA section 189(e). See 83 FR 19631, 19633–19634.

[6] Concurrent with our proposed conditional approval action in 2018, we made an interim final determination that the State of Arizona had satisfied the requirements of part D of the CAA permitting program for areas under the jurisdiction of ADEQ with respect to $PM_{2.5}$ precursors under section 189(e). See 83 FR 1195 (January 10, 2018) and 83 FR 1212 (January 10, 2018). The effect of our interim final determination was that the imposition of sanctions that had been triggered were deferred.

[7] See 83 FR 19631, 19633–19634.

minor and technical rule revisions to the ADEQ's NSR program that we proposed to approve in our December 23, 2020 proposed action.[8]

Finally, our December 23, 2020 proposal also included our proposed determination that the ADEQ's SIP-approved NSR program meets the visibility requirements for major NSR programs in 40 CFR 51.307. Accordingly, we proposed to update 40 CFR 52.145(b) to remove the existing visibility FIPs [9] for those stationary sources subject to the ADEQ's permitting jurisdiction.

The EPA's proposal and technical support document (TSD) for this rulemaking action have more information about the content of the ADEQ's SIP submittals (collectively referred to hereinafter as the ''2019–20 NSR submittals''), the deficiencies in the ADEQ's NSR program that are being corrected, and our rationale for proposing approval.

The rules that the EPA proposed to approve into the ADEQ's portion of the Arizona SIP are listed in Table 1 of this notice, and the existing SIP-approved rules that we proposed to remove or supersede from the SIP are listed in Table 2 of this notice. The rules are from the Arizona Administrative Code, Title 18—Environmental Quality, Chapter 2—Department of Environmental Quality—Air Pollution Control, Articles 1, 3, and 4.[10] These rules apply to all areas and stationary sources in Arizona for which the ADEQ has permitting jurisdiction. The ADEQ has permitting jurisdiction for the following stationary source categories in all areas of Arizona: Smelting of metal ores, coal-fired electric generating stations, petroleum refineries, Portland cement plants, and portable sources. The ADEQ also has permitting jurisdiction for major and minor sources in the following counties: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave, Navajo, Santa Cruz, Yavapai, and Yuma. Finally, the ADEQ has permitting jurisdiction over major sources in Pinal County (currently delegated to Pinal County Air Quality Control District) and any source in Maricopa, Pima, or Pinal County for which the ADEQ asserts jurisdiction.

TABLE 1—SUBMITTED RULES

| Rule | Title | State effective date |
|---|---|---|
| R18–2–101, except (20) | Definitions | [11] 2/1/2020 |
| R18–2–301 | Definitions | 2/1/2020 |
| R18–2–302 | Applicability; Registration; Classes of Permits | 3/21/2017 |
| R18–2–302.01 | Source Registration Requirements | 2/1/2020 |
| R18–2–304 | Permit Application Processing Procedures | 2/1/2020 |
| R18–2–306 | Permit Contents | 3/21/2017 |
| R18–2–306.01 | Permits Containing Voluntarily Accepted Emission Limitations and Standards | 3/21/2017 |
| R18–2–317 | Facility Changes Allowed Without Permit Revisions—Class I | 8/7/2012 |
| R18–2–317.01 | Facility Changes that Require a Permit Revision—Class II | 8/7/2012 |
| R18–2–317.02 | Procedures for Certain Changes that Do Not Require a Permit Revision—Class II | 8/7/2012 |
| R18–2–319 | Minor Permit Revisions | 3/21/2017 |
| R18–2–320 | Significant Permit Revisions | 3/21/2017 |
| R18–2–334 | Minor New Source Review | 2/1/2020 |
| R18–2–406 | Permit Requirements for Sources Located in Attainment and Unclassifiable Areas | 2/1/2020 |

TABLE 2—RULES TO BE REMOVED OR SUPERSEDED

| Rule | Title | EPA approval date | **Federal Register** citation |
|---|---|---|---|
| R18–2–101 | Definitions | May 4, 2018 | 83 FR 19631 |
| R18–2–301 | Definitions | November 2, 2015 | 80 FR 67319 |
| R18–2–302 | Applicability; Registration; Classes of Permits | November 2, 2015 | 80 FR 67319 |
| R18–2–302.01 | Source Registration Requirements | November 2, 2015 | 80 FR 67319 |
| R18–2–304 | Permit Application Processing Procedures | November 2, 2015 | 80 FR 67319 |
| R18–2–306 | Permit Contents | November 2, 2015 | 80 FR 67319 |
| R18–2–306.01 | Permits Containing Voluntarily Accepted Emission Limitations and Standards. | November 2, 2015 | 80 FR 67319 |
| R18–2–319 | Minor Permit Revisions | November 2, 2015 | 80 FR 67319 |
| R18–2–320 | Significant Permit Revisions | November 2, 2015 | 80 FR 67319 |
| R18–2–334 | Minor New Source Review | November 2, 2015 | 80 FR 67319 |
| R18–2–406 | Permit Requirements for Sources Located in Attainment and Unclassifiable Areas. | May 4, 2018 | 83 FR 19631 |
| R9–3–217, paragraph A | Attainment Areas; Classification and Standards | April 23, 1982 | 47 FR 17483 |

[8] The ADEQ's January 14, 2020 submittal requested that specific paragraphs from certain revised rules be added to the Arizona SIP. The 2020 Minor NSR submittal clarified that the ADEQ requests that the entirety of each revised rule (with one exception) be included in the SIP, rather than only the selected paragraphs identified in the earlier submittal.

[9] The visibility FIPs are implemented at 40 CFR 52.27 for attainment areas and 40 CFR 52.28 for nonattainment areas.

[10] One older rule provision that we are removing from the Arizona SIP, listed in Table 2, was from the Arizona Administrative Code, Title 9, Chapter 3, Article 2.

[11] This rule contains a new provision stating that a particular revised subsection, R18–2–101(131)(f), will take effect on the effective date of the EPA Administrator's action approving it as part of the Arizona SIP. Therefore, the revised version of R18–2–101(131)(f) would become effective on the effective date of our approval of the current submittal of R18–2–101.

## II. Public Comments and EPA Responses

The EPA's proposal provided for a 30-day public comment period. We received one set of comments from Arizona Center for Law in the Public Interest and the Center for Biological Diversity (''the commenters''). Below, we summarize the comments received and provide our responses. The full text of the comments is available in the docket for this action.

*Comment:* The commenters state that the ADEQ's minor NSR program is inadequate because it does not regulate ammonia and volatile organic compounds (VOCs) as $PM_{2.5}$ precursors. The commenters argue that the EPA's approval of the 2020 Minor NSR submittal will interfere with attainment of the $PM_{2.5}$ National Ambient Air Qualtiy Standard (NAAQS) in areas under the ADEQ's jurisdiction that are designated nonattainment for $PM_{2.5.}$ The commenters argue that this also means that the submittal does not comply with CAA section 110(l) and Appendix V to 40 CFR part 51. Further, the commenters argue that the 2020 Minor NSR submittal is insufficient because it does not include a modeling demonstration that the regulation of VOCs or ammonia is unnecessary to ensure protection of the $PM_{2.5}$ NAAQS.

*Response:* As an initial matter, we note that the commenters' argument that the ADEQ's minor NSR program must regulate VOCs and ammonia as precursors to $PM_{2.5}$ in $PM_{2.5}$ nonattainment areas where the ADEQ has jurisdiction does not address the specific revisions to the ADEQ's minor NSR program that are the focus of the EPA's current action. As explained in section I of this **SUPPLEMENTARY INFORMATION** section, the EPA previously undertook an extensive review of the ADEQ's NSR program (minor NSR, PSD, and NNSR) in 2015 to ensure that the program met all Clean Air Act requirements. In our 2015 NSR action, we found that the ADEQ's updated program largely met Clean Air Act requirements, but we identified a number of specific deficiencies in our final action that needed to be corrected in order for ADEQ to gain full approval from the EPA. Most of the identified deficiencies were corrected and submitted to the EPA for approval in 2017 and were approved in our 2018 Major NSR action. We are currently acting on the ADEQ's 2019–20 NSR submittals that correct the remaining deficiencies that we identified as the bases for our final limited disapproval in our 2015 NSR action and that formed the basis for the conditional approval in our 2018 Major NSR action. The EPA found in our 2015 NSR action that the ADEQ's minor NSR program met all the requirements for a minor NSR program in CAA section 110(a)(2)(C) and 40 CFR 51.160–51.164 with the exception of specific deficiencies that the ADEQ is now addressing with the 2020 Minor NSR submittal. In light of the recent and extensive review and approval by the EPA of the ADEQ's NSR program, we find that the commenters' concerns regarding $PM_{2.5}$ precursors in the ADEQ's minor NSR program are not germane to the deficiencies with the ADEQ's minor NSR program that we identified previously and that we are addressing in this action. Nevertheless, we will explain why we disagree with the commenters that the ADEQ's minor NSR program must regulate VOCs and ammonia as precursors to $PM_{2.5}$ in the areas where the ADEQ has permitting jurisdiction, and why we disagree that the EPA's approval of these revisions to the ADEQ's SIP-approved minor NSR program is inconsistent with CAA section 110(l) and Appendix V to 40 CFR part 51.

The commenters are concerned that this action will interfere with attainment of the $PM_{2.5}$ NAAQS in designated $PM_{2.5}$ nonattainment areas under the ADEQ's permitting jurisdiction because the ADEQ's minor NSR program and the 2020 Minor NSR submittal do not specifically regulate ammonia and VOC as precursors to $PM_{2.5}$ in the ADEQ's minor NSR program.[12] As a result, the commenters conclude, the 2020 Minor NSR submittal does not meet CAA section 110(l) and section 2.2(d) of Appendix V to 40 CFR part 51. To support their concerns, the commenters point generally to examples of operations that can emit ammonia and VOC, and imply that the method to demonstrate that this action complies with CAA section 110(l) and section 2.2(d) of Appendix V to 40 CFR part 51 is through a modeling demonstration that they assert is required by section 2.2(e) of Appendix V to 40 CFR part 51.

To evaluate the commenters' concerns, it is important to understand the requirements in the Act governing how permitting authorities must address precursors in NSR programs for nonattainment areas. Part D of title I of the Act contains specific requirements for the development of an NNSR program for *major* sources (and major modifications) in nonattainment areas. Among other requirements, in a $PM_{2.5}$ nonattainment area, the NNSR program must apply to major sources of direct $PM_{2.5}$ emissions and to major sources of $PM_{2.5}$ precursors, unless the EPA determines that such precursor sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the nonattainment area. See CAA section 189(e). For purposes of the NNSR program, the EPA has identified $NO_{X,}$ $SO_{2,}$ VOCs, and ammonia as precursors to $PM_{2.5}$. See 40 CFR 51.165(a)(1)(xxxvii)(C)(2). Our proposed action explained that we have determined that the ADEQ's NNSR program for $PM_{2.5}$ fully satisfies CAA section 189(e), and the commenters do not dispute this. The requirements of CAA section 189(e) do not, however, apply to NSR permitting under the minor NSR program.

The Act's requirements for minor NSR programs are far less prescriptive in general than those applicable for NSR programs regulating proposed new major sources and major modifications. CAA section 110(2)(a)(C), which governs minor NSR programs, requires the ''regulation of the modification and construction of any stationary source within the areas covered by the plan *as necessary* to assure that national ambient air quality standards are achieved.'' (emphasis added) The EPA's implementing regulations for minor NSR programs require that such programs include legally enforceable procedures that enable the state to determine whether the construction or modification of sources will result in a violation of applicable portions of the control strategy or interference with attainment or maintenance of the NAAQS, and, if so, to prevent such construction or modification. See 40 CFR 51.160(a)–(b). States are not required to regulate the construction of all new or modified stationary sources under their minor NSR programs; rather, the procedures must identify the types and sizes of sources regulated under the state's minor NSR program, and the state's plan must discuss the basis for determining which sources will be subject to review. 40 CFR 51.160(e).[13] Thus, the Act provides considerable discretion for permitting authorities to develop minor NSR programs determined ''necessary'' to assure the NAAQS are achieved in their respective geographic areas. Consistent with CAA section 110(a)(2)(C) and the implementing regulations governing minor NSR programs at 40 CFR 51.160–

[12] The ADEQ's SIP-approved minor NSR program expressly regulates oxides of nitrogen ($NO_X$) and sulfur dioxide ($SO_2$) as $PM_{2.5}$ precursors at R18–2–101(123).

[13] The EPA's implementing regulations also include other largely procedural requirements for minor NSR programs at 40 CFR 51.160–51.164.

51.164, the EPA has determined, as explained in our proposal, that the ADEQ's program now meets the relevant requirements for a minor NSR program.

In response to the commenter's specific concerns here, we consider the two $PM_{2.5}$ nonattainment areas in Arizona—Nogales and West Central Pinal. Regarding the Nogales area, where the ADEQ has minor NSR permitting jurisdiction, the ADEQ's 2020 Minor NSR submittal explains that ''[t]he Nogales $PM_{2.5}$ nonattainment area was found to have attained the 2006 24-hour $PM_{2.5}$ NAAQS in 2017.'' [14] Further, while the ADEQ's minor NSR program does not specifically regulate VOC as a $PM_{2.5}$ precursor, minor sources of VOC are, in fact, regulated by the ADEQ's minor NSR program at a source-wide permitting threshold of 20 tons per year. The 2020 Minor NSR submittal contains an analysis showing that this permitting threshold is expected to cover at least 86% of VOC emissions in areas subject to ADEQ permitting jurisdiction.[15] For the West Central Pinal $PM_{2.5}$ nonattainment area, the Pinal County Air Quality Control District, not the ADEQ, has primary permitting jurisdiction for minor sources. Accordingly, the ADEQ's minor NSR permitting program generally does not apply in the West Central Pinal $PM_{2.5}$ nonattainment area.[16]

Although the commenters mention certain types of operations that may emit ammonia and VOCs, the commenters do not provide information or explanation that demonstrates that the ADEQ's regulating those pollutants as precursors to $PM_{2.5}$ in the $PM_{2.5}$ nonattainment areas under the ADEQ's jurisdiction as part of the ADEQ's minor NSR program is necessary to achieve the $PM_{2.5}$ NAAQS in any such areas. As explained above, the only $PM_{2.5}$ nonattainment area where the ADEQ has primary jurisdiction for minor sources, the Nogales area, is already attaining the $PM_{2.5}$ NAAQS. Moreover, in addition to regulating direct $PM_{2.5}$ emissions, the ADEQ's minor NSR program regulates emissions of $NO_X$ and $SO_2$ as $PM_{2.5}$ precursors and regulates VOC emissions in general. In light of the information described above, we find that the ADEQ's determination to not regulate sources of ammonia and VOCs as $PM_{2.5}$ precursors in its minor NSR program in the $PM_{2.5}$ nonattainment areas under its jurisdiction is reasonable and not necessary to ensure that the $PM_{2.5}$ NAAQS are achieved.

The commenters also indicate that the EPA's approval of the 2020 Minor NSR submittal conflicts with the requirement in CAA section 110(l) that the EPA ''shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress. . .or any other applicable requirement of this chapter.'' Our December 23, 2020 proposed approval contained our analysis that our action met these requirements of CAA section 110(l): ''We have determined that our action on the 2019–20 NSR submittals would, as described herein, strengthen the applicable SIP. This action is primarily intended to correct numerous deficiencies in the ADEQ's NSR program and provides other revisions to enhance and update the program. Accordingly, this action will not interfere with attainment and reasonable further progress, or any other applicable requirement.'' [17] The commenters did not address this analysis or explain how this action to correct deficiencies in the ADEQ's minor NSR program will interfere with any applicable requirement concerning attainment and reasonable further progress or any other CAA requirement in the $PM_{2.5}$ nonattainment areas under the ADEQ's jurisdiction that are of concern to the commenter. This action strengthens the overall SIP and does not relax any SIP requirements related to attaining the $PM_{2.5}$ NAAQS in Arizona.

The commenters make the related argument that the ADEQ's SIP revision does not satisfy section 2.2(d) of Appendix V to 40 CFR part 51 because it does not regulate VOCs and ammonia as precursors to $PM_{2.5}$ and therefore interferes with attainment of the $PM_{2.5}$ NAAQS in areas under ADEQ's jurisdiction that are designated nonattainment for $PM_{2.5}$.[18] As described above, the 2019–20 SIP submittals contain sufficient information to support our conclusion that the ADEQ's decision not to specifically regulate VOC and ammonia as $PM_{2.5}$ precursors for its minor NSR program is acceptable and will not interfere with attainment of the $PM_{2.5}$ NAAQS.

Lastly, in response to the commenter's argument that the ADEQ should have included a modeling demonstration relating to ammonia and VOC as $PM_{2.5}$ precursors to meet the requirements of section 2.2(e) of Appendix V to 40 CFR part 51, the commenters have not accurately characterized these requirements.[19] We do not interpret section 2.2(e) of Appendix V to require that *every* SIP submittal contain a modeling demonstration, as implied by the commenters. Instead, when a modeling demonstration is necessary and is therefore included in a submittal to support the SIP revision, then the submittal must also contain the underlying modeling information outlined in section 2.2(e). We find that section 2.2(e) of Appendix V is not applicable to the 2020 Minor NSR submittal because modeling was not used to support this SIP revision nor was a modeling demonstration required in this instance.

*Comment:* The commenters consider the ADEQ's minor NSR thresholds of one-half the ''significant'' emission rates (SERs) in the PSD program [20] to be arbitrary and unsupported by modeling or other evidence demonstrating protection of the NAAQS, in violation of CAA section 110(l) and sections 2.2(d) and (e) in Appendix V to 40 CFR part 51. The commenters argue that merely comparing the percentage of emissions regulated by the ADEQ's program to other programs does not address whether thresholds are ''protective of the NAAQS''. The commenters assert that the ADEQ misplaced focus on the contributions of current sources in nonattainment areas under its jurisdiction and whether those areas are now violating the NAAQS. Instead, the ADEQ should have focused on ensuring that *additional* sources (or new modifications of existing sources) do not jeopardize attainment or maintenance of the NAAQS in the future.

*Response:* We respectfully disagree with the commenters that the ADEQ has not provided an adequate rationale for

[14] 2020 Minor NSR submittal at 19; section 4.4.3.2. See also 82 FR 21711 (May 10, 2017) (EPA determination of attainment by the attainment date).

[15] 2020 Minor NSR submittal at 16; Table 4–2.

[16] We also note that the ADEQ's March 29, 2019 SIP revision related to ammonia as a $PM_{2.5}$ precursor provides results from a 2010 ADEQ study that determined the speciation of $PM_{2.5}$ emissions in the West Central Pinal nonattainment area. The study showed that 90% of $PM_{2.5}$ emissions in the West Central Pinal nonattainment area originate from direct $PM_{2.5}$ sources, and less than 10% from $PM_{2.5}$ precursors. March 29, 2019 SIP submittal at 11; Table 3–3.

[17] 85 FR 83868, 83876 (Dec. 23, 2020).

[18] The commenters reference the portion of section 2.2(d) that requires SIP submittals to ''demonstrat[e] that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented.'' See 40 CFR part 51, Appendix V, section 2.2(d).

[19] Section 2.2(e) of Appendix V requires that a SIP submittal include the ''[m]odeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.''

[20] See 40 CFR 51.166(b)(23)(i).

its permitting exemption thresholds for minor sources in nonattainment areas and minor sources of $PM_{2.5}$ in attainment areas under CAA section 110(l) and Appendix V to 40 CFR part 51.

First, we note that with the exception of the thresholds for $PM_{2.5}$ sources, in our 2015 NSR action, the EPA previously approved the ADEQ's permitting thresholds for minor NSR as they apply in attainment areas, and, accordingly, those thresholds were not changed as part of the 2020 Minor NSR submittal. The EPA's prior approval was based on the ADEQ's demonstration that the emissions from the sources and projects to be exempted from its minor NSR program under these thresholds were inconsequential to attainment or maintenance of the NAAQS.[21] However, in our 2015 NSR action, we also determined that the ADEQ had not provided a rationale for the $PM_{2.5}$ permitting exemption threshold, nor had it provided an adequate rationale for why the permitting exemption thresholds were appropriate for nonattainment areas. [22] In this action, we are considering only the 2020 Minor NSR submittal and the ADEQ's rationale for its permitting exemption thresholds as they apply to minor sources in *nonattainment* areas, and to minor sources of $PM_{2.5}$ in attainment areas.

The commenters specifically take issue with the ADEQ's comparing the percentage of emissions regulated by its NSR program to the percentage of emissions regulated by other NSR programs, and assert that the ADEQ's approach should focus more on future sources of emissions and ensuring that such sources do not jeopardize the NAAQS. As described below, the ADEQ's approach did not rest solely on comparing its permitting thresholds to other programs, and we find that the approach ensures that the ADEQ's minor NSR program reviews the necessary sources to ensure attainment and maintenance of the NAAQS.

Prior to 2012, the ADEQ's minor NSR program required permitting of non-major sources with potential emissions of a criteria pollutant at or above the SERs from the PSD program reflected in 40 CFR 51.166(b)(23)(i). To address concerns raised by the EPA regarding these historic permitting thresholds, the ADEQ assessed other potential lower permitting thresholds for its minor NSR program and ultimately selected revised, lower thresholds. In 2012, the ADEQ chose to use a method similar to the method that the EPA used to develop permitting thresholds under its minor NSR program applicable in Indian country, known as the ''Tribal Minor NSR rule.'' [23] To inform its selection of minor NSR permitting thresholds in developing the Tribal Minor NSR rule, the EPA conducted a source distribution analysis using data from the National Emissions Inventory. The EPA's analysis concluded that the percentage of *emissions* that would be exempt from minor NSR under the Tribal Minor NSR rule's thresholds would be small (less than 1.5% of total emissions for each pollutant), while the program's permitting thresholds would require only 14–58% of *stationary sources* (varying based on the individual pollutant) to obtain permits or register under the Tribal Minor NSR rule. The EPA's analysis determined that this approach provided ''evidence that sources with emissions below the proposed minor NSR thresholds will be inconsequential to attainment and maintenance of the NAAQS.'' [24] We stated that the permitting thresholds for the minor NSR program applicable in Indian country are ''not intended to establish a new set of minimum criteria that a Tribe or a state would need to follow in developing its own minor source permitting program.'' [25] Nevertheless, the approach taken by the EPA in developing the thresholds in the Tribal Minor NSR rule represents one approach that EPA has found to be appropriate in establishing such thresholds.

To assess potential thresholds for its minor NSR program, the ADEQ applied a similar approach to a local data set. During the stakeholder process, the ADEQ proposed two alternative scenarios for its revised minor NSR thresholds: One that generally used one half of the PSD SERs (Scenario 1) and one that generally used one quarter of the PSD SERs (Scenario 2). The ADEQ's analysis looked at the percentage of emissions that would be regulated at the two thresholds and concluded that ''both scenarios result in a relatively large percentage of emissions being subject to regulation compared to the percentage of sources brought into the program.'' The results of the analysis showed that using Scenario 2 for the minor NSR emission thresholds rather than Scenario 1 would result in significantly more coverage of carbon monoxide (CO) and $SO_2$ emissions under the ADEQ's minor NSR program. However, the ADEQ reasoned that stationary source emissions of CO are generally dwarfed by mobile source emissions and do not contribute significantly to nonattainment of the CO NAAQS. Also, the ADEQ reasoned that in the areas within Arizona that are subject to its minor NSR program, the sources that could contribute to noncompliance with the $SO_2$ NAAQS are well-defined and consist of large industrial sources already subject to the permitting program. The ADEQ concluded, based on the above considerations, that for purposes of minor NSR, use of the Scenario 2 thresholds would not offer any substantial benefits over Scenario 1, and set numerical exemption thresholds for the pollutants in its minor NSR program that equate to one half of the PSD SERs.[26]

In response to the EPA's determination in our 2015 NSR action that the ADEQ needed to justify the chosen permitting thresholds for $PM_{2.5}$ and to further justify the thresholds as they apply in nonattainment areas, in its 2020 Minor NSR submittal, the ADEQ continued to build on its prior analyses supporting the current permitting thresholds in its minor NSR program.[27] First, the ADEQ updated its prior source distribution analysis to use the National Emissions Inventory, the same data set that the EPA used for its analysis for the Tribal Minor NSR program, and to include $PM_{2.5}$ emissions. The analysis shows that the ADEQ's NSR program is expected to cover approximately 98% of $PM_{2.5}$ emissions in counties where the ADEQ has minor source permitting jurisdiction and approximately 96% of $PM_{2.5}$ emissions in $PM_{2.5}$ nonattainment areas where the ADEQ has minor source permitting jurisdiction. Further, the

[21] In reviewing the ADEQ's minor NSR program under 40 CFR 51.160(e), we considered it appropriate for the ADEQ to exclude emissions from its NSR program if such emissions would be ''inconsequential to attainment or maintenance of the NAAQS.'' 80 FR 67319, 67325. This was the same standard that the EPA used in developing the permitting thresholds for its minor NSR program for Indian country. 76 FR 38748, 38758 (Jul. 1, 2011).

[22] Id.

[23] 76 FR 38748 (July 1, 2011).

[24] 71 FR 48695, 48701–48703 (Aug. 21, 2006).

[25] 76 FR 38748, 38754.

[26] See Appendix A of the ADEQ's 2012 NSR SIP submittal at 1547–1549 for a detailed discussion of the ADEQ's approach and analysis. See also, the Technical Support Document for the EPA's Notice of Proposed Rulemaking, Revision to the Arizona State Implementation Plan for the Arizona Department of Environmental Quality, March 2015 (''EPA's 2015 TSD'') at 22–25. The ADEQ's ''permitting exemption thresholds'' are found at R18–2–101(101). The thresholds are ton per year values set for various pollutants that determine when a permit or registration is required for new sources and when minor NSR review is triggered for modifications. If potential source-wide emissions from all regulated pollutants are below the permitting exemption thresholds, then the source is ''exempt'' from the ADEQ's permitting and registration program.

[27] See 2020 Minor NSR submittal at 14–20 for the full discussion.

ADEQ considered the types of emission sources in each of the nonattainment areas where it has minor source permitting jurisdiction that contribute to nonattainment. For example, the Hayden and Miami $SO_2$ nonattainment areas are attributable to the copper smelters operating in each area, and the Nogales nonattainment area for particular matter with an aerodynamic diameter less than or equal to 10 microns (''$PM_{10}$'') is attributable to paved road dust, construction, and residential wood burning. As we summarized in the TSD for our December 23, 2020 proposed action, ''[t]his discussion shows that minor sources are not currently significant contributors to the nonattainment issues in these areas.'' [28]

In consideration of the information summarized in this response, we disagree with the commenters that the ADEQ's approach to revising its minor source permitting thresholds for $PM_{2.5}$ and in designated nonattainment areas where it has minor source permitting jurisdiction was arbitrary and unsupported. We find that the ADEQ has provided sufficient evidence that its NSR program will apply to the vast majority of emissions where the ADEQ has permitting jurisdiction, including in Arizona's nonattainment areas, and including $PM_{2.5}$ emissions in attainment areas.[29] As a result, we conclude that those emissions exempted from the ADEQ's NSR program under its minor NSR permitting exemption thresholds will be inconsequential to attainment and maintenance of the NAAQS.

While we agree with the commenters' general proposition that the NSR program focuses on the review of new sources and modifications to existing sources, we disagree that this means that the rationale and analysis provided by the ADEQ to support its permitting exemption thresholds is inadequate. The commenters have not suggested or provided an alternative analysis that they believe would be appropriate to demonstrate the insufficiency of the minor NSR thresholds at issue, other than a generic reference to ''modeling.'' We find the ADEQ's rationale persuasive and find that the ADEQ has demonstrated that the permitting thresholds it has established by considering local conditions will capture the types and sizes of sources that are necessary for review to ensure such sources will not interfere with attainment and maintenance of the NAAQS in the areas where the ADEQ has minor NSR permitting jurisdiction.[30] Thus, the additional analysis and information provided by the ADEQ in the 2020 Minor NSR submittal is sufficient for demonstrating that the permitting thresholds for minor sources in nonattainment areas and minor sources of $PM_{2.5}$ in attainment areas meet the requirements of CAA section 110(l) and Appendix V to 40 CFR part 51 [31] and will not interfere with attainment and maintenance of the NAAQS.

*Comment:* The commenters assert that the 2020 Minor NSR submittal fails to demonstrate under 40 CFR 51.160(e) that review of ''agricultural equipment used in normal farm operations'' under the ADEQ's minor NSR program is not needed for the ADEQ's program to meet federal NSR requirements for attainment and maintenance of the NAAQS or review for compliance with the control strategy. The commenters take issue with several aspects of the ADEQ's rationale, that we discuss in detail below, and further conclude that this exemption violates CAA section 110(l) and sections 2.2(d) and (e) of Appendix V to 40 CFR part 51.

*Response:* As discussed below, we respectfully disagree with the commenters that the 2020 Minor NSR submittal does not demonstrate that the State's exemption for ''agricultural equipment used in normal farm operations'' in its NSR program is approvable under 40 CFR 51.160(e). The ADEQ's submittal demonstrates that regulation of these exempt sources under its minor NSR program is not needed for ADEQ's program to meet federal NSR requirements for attainment and maintenance of the NAAQS or review for compliance with the control strategy. As the ADEQ has explained in detail, this exemption could potentially apply only to a very narrow group of minor sources that would not otherwise be exempt from minor NSR review under exemptions already approved by the EPA in our 2015 NSR action. Further, the ADEQ retains authority to require a permit even for the sources that will fit within this exemption if it determines that doing so is necessary to protect the NAAQS or enforcement of the control strategy. For these reasons, we also disagree that the exemption violates CAA section 110(l) and section 2.2(d) of Appendix V to 40 CFR part 51.[32]

The State of Arizona exempts ''agricultural equipment used in normal farm operations'' from the general requirement to obtain an air permit.[33] The ADEQ's permitting regulations implement this exemption by exempting ''agricultural equipment used in normal farm operations'' from the requirement to obtain a registration or permit at R18–2–302(C). R18–2–302(C) makes clear that this exemption does not apply if the source is a ''major source'' or if ''operation without a permit would result in a violation of the [Clean Air] Act.'' R18–2–302(C)(2) also clarifies that ''agricultural equipment used in normal farm operations'' does not include equipment classified as a source that requires a permit under title V of the Act or that is subject to a standard under 40 CFR parts 60, 61, or 63.

We identified this exemption as one of the bases for our limited disapproval of the ADEQ's 2012 NSR SIP submittal in our 2015 NSR action because the submittal did not adequately justify the exemption as required by 40 CFR 51.160(e),[34] and it was unclear how the

[28] Technical Support Document for EPA's Notice of Proposed Rulemaking: Air Plan Approval; Arizona; Stationary Sources; New Source Review Updates, November 2020 (''EPA's 2020 TSD'') at 15.

[29] The ADEQ's program requires permitting or registration for new *and* existing sources. While a NAAQS review is generally only triggered for new sources or modifications, the ADEQ's permitting of existing sources provides additional protection that such sources are also complying with all other applicable CAA requirements.

[30] The NSR program is only one aspect of the CAA requirements that must be implemented to ensure attainment and maintenance of the NAAQS. The NSR program is generally intended to allow for increases in emissions if it can be demonstrated that the increases will not interfere with attainment. Among other CAA programs, the comprehensive set of requirements found in CAA title I, part D are designed to ensure that State and local authorities with jurisdiction over nonattainment areas require the necessary reductions to reach attainment.

[31] As explained above, the commenters do not accurately characterize the SIP submittal completeness criteria in Section 2.2(e) of Appendix V to 40 CFR part 51 as it relates to modeling. We find that section 2.2(e) is not applicable to the 2020 Minor NSR submittal because it did not contain modeling to support the SIP revision, nor is modeling required in this instance.

[32] As noted previously, the commenters do not accurately characterize section 2.2(e) of Appendix V, which requires that SIP submittals include certain information that supports modeling when modeling is otherwise required to be conducted for a SIP revision. The CAA does not require all SIP submittals to contain modeling, and modeling was not included in or required to support the 2020 Minor NSR submittal. Therefore, we continue to find that section 2.2(e) of Appendix V is not applicable to the 2020 Minor NSR submittal in general, nor does it apply specifically to the ADEQ's demonstration supporting the exemption of agricultural equipment used in normal farm operations.

[33] See ARS 49–426(B), which states, in part, in reference to the State law requirements for obtaining air permits: ''The provisions of this section shall not apply to motor vehicles, to agricultural vehicles or *agricultural equipment used in normal farm operations,* or to fuel burning equipment which, at a location or property other than a one or two family residence, is rated at less than one million British thermal units per hour.'' (emphasis added)

[34] See 40 CFR 51.160(e): ''The procedures must identify types and sizes of facilities, buildings, structures, or installations which will be subject to

Continued

exemption in state law applied in the context of the ADEQ's NSR program.[35] In response to this limited disapproval, the ADEQ provided a detailed discussion of the exemption in the 2020 Minor NSR submittal. As summarized below, the ADEQ's 2020 Minor NSR submittal demonstrates that the exemption is only available to a limited set of minor sources not otherwise exempt under exemptions we have already approved into the Arizona SIP as part of the ADEQ's NSR program, and the program's potential exemption of such sources would be inconsequential to attainment and maintenance of the NAAQS.

First, the 2020 Minor NSR submittal clarified that the exemption at R18–2–302(C) represents the ADEQ's interpretation of the agricultural exemption in Arizona Revised Statutes (ARS) section 49–426(B):

> This rule represents ADEQ's official implementation and interpretation of the statutory exemption under its rulemaking authority in ARS §§ 49–425 and 49–426(B). The rule has been recognized as valid by the Arizona Attorney General in its opinion supporting the state's Title V program in 1993.[36] In approving Arizona's Title V program in 1996, EPA deferred to this opinion but stated that it would revisit this issue if ''a successful legal challenge to [the regulatory exemption] occurs.'' [37] In the subsequent 23 years, there has been no such challenge.

Section 4.2.1 of the 2020 Minor NSR submittal at 10.

Second, the ADEQ confirmed that the ADEQ interprets its permitting requirements such that its permitting determinations (including for the registration program component of its minor NSR program) are made on a source-wide basis. As a result, if ''agricultural equipment used in normal farm operations'' is located at the same stationary source as equipment that requires a permit, then the ADEQ's permit requirements, and potentially NSR, extend to the entire source and all of its pollutant-generating activities, including any equipment that might otherwise meet the definition of ''agricultural equipment used in normal farm operations''. These two clarifications mean that the agricultural equipment exemption is potentially available only to a subset of minor sources. See section 4.2.2 of the 2020 Minor NSR submittal at 10–11.

While the term ''normal farm operations'' is not specifically defined by statute or rule, the ADEQ stated that the State of Arizona's Agricultural Best Management Practices (Ag BMP) program for commercial farming operations in $PM_{10}$ nonattainment areas provides guidance on the State's interpretation of the types of activities that constitute normal farm operations. This includes activities such as tillage, planting, and harvesting; areas of a commercial farm that are not normally in crop production (*i.e.,* fallow); areas of a commercial farm that are normally in crop production; significant agricultural earthmoving activities; traffic over unpaved access connections or unpaved roads or feed lanes; animal waste handling and transporting; arenas, corrals, and pens; and canals. The ADEQ stated that it interprets the normal farm operations exemption as applicable to the types of equipment used for these activities and to crop and feed processing equipment that produces only fugitive emissions. In the ADEQ's experience, farm emissions tend to consist almost exclusively of fugitive dust generated by the disturbance of soils. It is important to note that the ADEQ's current SIP-approved NSR program already exempts fugitive emissions,[38] at R18–2–302(F), in determining whether a stationary source is subject to minor NSR permitting requirements. See sections 4.2.3 and 4.2.4 of the 2020 Minor NSR submittal at 11–12.[39] As a result, most of the sources that would meet the definition of ''agricultural equipment used in normal farm operations'' would be sources of fugitive emissions that are already exempt from minor NSR under the ADEQ's SIP-approved minor NSR program.

The ADEQ also recognized that it is possible for equipment used in normal farm operations to be a part of a stationary source that produces stack (*i.e.,* non-fugitive) emissions greater than the ADEQ's permitting exemption thresholds, and it may also be possible for normal farm operations themselves to be configured in such a way as to produce stack emissions. However, the ADEQ believes that, in most cases, such a stationary source would not qualify for the permitting exemption because equipment used in normal farm operations ''does not include equipment classified as a source that requires a permit under Title V of the Act, or that is subject to a standard under 40 CFR 60, 61, or 63.'' Because the ADEQ determines permit applicability on a source-wide basis, if a stationary source that engaged in normal farm operations qualified as a CAA title V source or included equipment subject to a New Source Performance Standard (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAP) in 40 CFR parts 60, 61, or 63, then the entire source would require a permit, and potentially be subject to minor NSR if its emissions were above the ADEQ's minor NSR permitting exemption thresholds. In the ADEQ's experience, most permitted sources include one or more pieces of equipment subject to an NSPS, such as a boiler, stationary engine, or fuel storage tank. The ADEQ concluded that it is likely that if equipment used in normal farm operations were collocated with equipment with stack emissions exceeding the permitting exemption thresholds, at least some of that equipment would be subject to an NSPS, and therefore the normal farm operations exemption would not apply. See section 4.2.5 of the 2020 Minor NSR submittal at 12–13.

Finally, the ADEQ explained that under R18–2–302(C), equipment used in normal farm operations is not exempt if ''operation [of the equipment] without a permit would result in a violation of the Act,'' which provides a final safeguard for its NSR program. In a situation where agricultural equipment used in normal farm operations with stack emissions above the permitting exemption thresholds used the exemption to avoid permitting, the ADEQ would invoke this provision as necessary to ensure that any such source does not endanger attainment or maintenance of the NAAQS or enforcement of the control strategy. The ADEQ explained that whenever it becomes aware of such a source through citizen complaint, inspection of the facility under the Ag BMP program, inspection of a nearby or related facility, notice from a building permit agency, or other means, the ADEQ will evaluate the facility using the methodology in R18–2–302.01(C) to determine whether it should be subject to permitting and minor NSR. See section 4.2.5 of the 2020 Minor NSR submittal at 13.

In our proposed action, we found that the ADEQ had demonstrated that its exemption for agricultural equipment used in normal farm operations is extremely limited in scope, and the potential sources exempted from permitting would be inconsequential to attainment and maintenance of the

review under this section. The plan must discuss the basis for determining which facilities will be subject to review.''

[35] See section 5.2.2.3 of the EPA's 2015 TSD at 26–27 and 80 FR 67319, 67323.

[36] Attorney General's Opinion, 2 (Nov. 15, 1993), Appendix D of the 2020 Minor NSR submittal.

[37] 61 FR 55910, 55915 (Oct. 30, 1996).

[38] Fugitive emissions are defined in the ADEQ's SIP-approved regulations at R18–2–101(59) as ''those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.'' See section 4.2 of the 2020 Minor NSR submittal at 9, n.14.

[39] See also 80 FR 67319, 67320, Table 1.

NAAQS. We stated that our determination was based on the ADEQ's interpretation of the narrow manner in which the exemption applies, the limited types of operations that are considered to be ''normal farm operations,'' and the ADEQ's retention of authority to address any potentially exempt sources that may endanger attainment or maintenance of the NAAQS or enforcement of the control strategy. We agreed that the vast majority of these operations are likely already exempted from the ADEQ's SIP-approved minor NSR program under the general exemption for excluding fugitive emissions in permitting applicability determinations. We concluded that the ADEQ's basis and explanation for the exemption from minor NSR review for agricultural equipment used in normal farm operations was acceptable.[40]

The commenters question certain aspects of the ADEQ's explanation and the EPA's rationale for approving the agricultural exemption as described above. First, the commenters disagree with the ADEQ's explanation of the permit exemption not being applicable to sources that are subject to a standard under 40 CFR parts 60, 61, or 63 or that are title V sources. The commenters do not see how this interpretation, which they say results in a ''blanket'' exemption for minor sources from permitting, is protective of the NAAQS. In response, this explanation simply clarifies the scope of the exemption by confirming that major sources and sources subject to a standard under 40 CFR parts 60, 61, or 63 cannot use the exemption. We disagree with the commenters that this interpretation by the ADEQ results in a ''blanket'' exemption for minor sources. Among other things, we note that sources that are subject to a standard under 40 CFR parts 60, 61, or 63 are often minor sources. The ADEQ has clarified that if any aspect of a stationary source is subject to one of these federal standards, then the entire stationary source, including any ''agricultural equipment used in normal farm operations,'' becomes subject to the ADEQ's permitting program.[41]

Second, the commenters take issue with the ADEQ's explanation that it expects the overwhelming majority of emissions from ''agricultural equipment used in normal farm operations'' to be fugitive emissions. The commenters assert that the fact that most of these exempted emissions are expected to be fugitive does not explain how the exemption is protective of the NAAQS. In response, it is important to understand the context for this explanation from the ADEQ. In our 2015 NSR action, as part of our limited approval and limited disapproval of the ADEQ's NSR program, the EPA approved of the ADEQ minor NSR program's treatment of fugitive emissions in determining when a permit is required. The ADEQ's minor NSR program requires fugitive emissions to be included in permit applicability determinations for certain industrial source categories listed in R18–2–101(23), such as Portland cement plants, primary lead smelters, primary copper smelters, and fossil-fuel-fired steam electric plants; and for sources which, as of August 7, 1980, were being regulated under section 111 or 112 of the Act. Fugitive emissions are not included in permit applicability determinations for any other minor sources; however, fugitive emissions are reviewed in minor NSR permit actions for any source triggering review because of non-fugitive emissions. See R18–2–101(12), R18–2–101(128), and R18–2–302(F). In our 2015 NSR action, we approved the ADEQ's minor NSR program under 40 CFR 51.160(e), including its treatment of sources of fugitive emissions, with the exception of the specific limited disapproval issues that we identified and that the ADEQ is addressing in the 2020 Minor NSR submittal. See section 5.2.2.3 of the EPA's 2015 TSD at 26–27; 80 FR 67319, 67323, 67332. In its 2020 Minor NSR submittal, the ADEQ is clarifying that the overwhelming majority of sources that could potentially use the agricultural equipment permit exemption are fugitive emissions sources that the EPA already approved for exemption from determining whether a permit is required, in our 2015 action. As a result, the agricultural equipment exemption does not create an additional large category of sources exempt from minor NSR permitting.

The commenters, however, further argue that fugitive dust emissions from agricultural equipment are primarily addressed through the State's Ag BMP program, and that ''experience with the Ag BMP program in both Maricopa County and Pinal County has demonstrated that it is wholly inadequate to ensure compliance with the $PM_{10}$ NAAQS.'' The commenters are concerned that the two $PM_{10}$ nonattainment areas in Maricopa and Pinal counties continue to violate the NAAQS despite the adoption of the Ag BMP program. The commenters point to recent exceedances of the $PM_{10}$ NAAQS in the Phoenix planning area (which covers portions of Maricopa and Pinal counties) and the fact that the West Pinal nonattainment area did not attain the $PM_{10}$ standard by the attainment date and was recently reclassified to serious nonattainment for $PM_{10}$. While the nonattainment issues in these areas are concerning, it is important to recognize that the Maricopa County Air Quality Department and Pinal County Air Quality Control District, rather than the ADEQ, have original jurisdiction for permitting minor sources in these areas of Arizona,[42] thus the ADEQ's minor NSR program would generally be inapplicable in these areas. Given that the ADEQ's minor NSR program does not generally extend to sources in the Phoenix and West Pinal $PM_{10}$ nonattainment areas, the commenters' concerns about the use of the Ag BMP program to address fugitive dust in the Phoenix and West Pinal $PM_{10}$ nonattainment areas do not indicate that the ADEQ's regulation of exempt agricultural equipment used in normal farm operations in other areas that are within the ADEQ's minor NSR permitting jurisdiction is necessary for attainment and maintenance of the NAAQS.[43]

Third, the commenters question the ADEQ's statement that ''[i]n the overwhelming majority of the remaining cases, equipment used in normal farm operations will be located at a stationary source that either qualifies as a title V source or includes equipment subject to a new source performance standard (NSPS)''. The commenters believe that the ADEQ has not supported this claim. The commenters are also concerned because they claim that the NSPS standards do not apply during periods of startup, shutdown, and malfunction, while the NAAQS apply at all times. We disagree that the ADEQ did not support this claim. Section 4.2.5 of the 2020 Minor NSR submittal provides the

[40] 85 FR 83868, 83873.

[41] The commenters also state that ''the fact that no one has challenged [R18–2–302(C)] does not mean a challenge could not occur in the future.'' This concern appears to address the ADEQ's reference to the fact that the Arizona Attorney General issued an opinion recognizing the validity of this exemption in support of the State's Title V program in 1993. See section 4.2.1 of the 2020 Minor NSR submittal at 10. As the ADEQ explained, the EPA stated in 1996 that it would defer to this opinion of the Arizona Attorney General in the absence of a successful legal challenge to the regulation. The commenters did not otherwise explain how this concern affects the approvability of the 2020 Minor NSR submittal.

[42] See the ADEQ's July 2, 2014 supplement to the 2012 NSR SIP submittal at 8–9.

[43] We note that the commenters' general concerns about the sufficiency of the Arizona Ag BMP program in the Phoenix and West Pinal $PM_{10}$ nonattainment areas are outside the scope of this action on revisions to the ADEQ's minor NSR program.

ADEQ's rationale.[44] For example, the submittal explains that, in the ADEQ's experience, most permitted sources include one or more pieces of equipment subject to an NSPS, such as boilers, stationary engines, or fuel storage tanks. The ADEQ clarified that a stationary source subject to such a standard could not make use of the agricultural equipment exemption.

The ADEQ's submittal further explains that under section 111 of the Clean Air Act, EPA is required to maintain a list of, and adopt NSPS for, all categories of sources that cause or significantly contribute to ''air pollution which may reasonably be anticipated to endanger public health or welfare.'' The ADEQ notes that, consistent with the breadth of this charge, the EPA has adopted standards for dozens of common sources of criteria pollutants, criteria pollutant precursors, greenhouse gases, and other pollutants. The ADEQ reasons that it is therefore likely that if equipment used in normal farm operations were collocated with equipment with stack emissions exceeding the permitting exemption thresholds, at least some of that equipment would be subject to an NSPS, and the exemption would not apply.[45]

We believe the ADEQ's explanation to be sufficiently supported based on the ADEQ's knowledge and experience with the pollutant-generating activities it oversees.[46]

Finally, the commenters challenge the ADEQ's statement that ''[i]n the few, if any, cases where equipment used in normal farm operations is located at a non-title V source that has stack emissions above the permitting exemption thresholds but does not include NSPS or NESHAP equipment, ADEQ retains the authority to require a permit to the extent necessary to assure protection of the NAAQS and the control strategy.'' [47] The commenters express concern because they are unclear on how the ADEQ would know that a permit is needed or that there is a potential NAAQS issue if sources aren't required to submit applications for review. We understand the commenters' concern on this issue, because the NSR program is intended to require review of sources prior to construction or modification to ensure that sources and modifications are constructed in a manner that will not cause or contribute to a NAAQS violation. However, our approval of the ADEQ's agricultural equipment exemption under 40 CFR 51.160(e) is based on the totality of the information presented by the ADEQ in the 2020 Minor NSR submittal. The ADEQ has demonstrated that the exemption creates a narrow category of sources that may be exempt from minor NSR review, as compared to the program we have already approved. However, in the potential instances where a stationary source is otherwise not required to obtain a permit in advance, the ADEQ has clarified that it has the authority to later require a permit and limit operations to protect the NAAQS. That is, minor sources defined as agricultural equipment used in normal farm operations cannot operate in a manner that would interfere with attainment and maintenance of the NAAQS by relying on the permitting exemption in State law.

In sum, the ADEQ has provided a detailed and well-supported rationale for its exemption of ''agricultural equipment used in normal farm operations'' from its minor NSR program, and demonstrated that any potentially exempted sources are inconsequential to attainment and maintenance of the NAAQS. Further, because the exemption will not interfere with the NAAQS, it is consistent with CAA section 110(l) and section 2.2(d) of Appendix V to 40 CFR part 51.

*Comment:* The commenters state that the ADEQ failed to justify the exemption for certain small stationary fuel burning equipment rated at less than one million British thermal units per hour (MMBtu/hr) found in Arizona state law. The commenters are concerned that the ADEQ's rationale does not justify the exemption or ensure protection of the NAAQS, as the ADEQ did not present modeling or other evidence in support of the exemption or to support that this equipment would not otherwise require a permit.

*Response:* We disagree with the commenters that the ADEQ has not adequately justified the Arizona state law exemption for small fuel burning equipment (those rated at less than 1 MMBtu/hr) in ARS section 49–426(B) within the context of its NSR program. The ADEQ's 2020 Minor NSR submittal provides an analysis of the state law exemption because the EPA identified it as a limited disapproval issue in our 2015 NSR action. In our 2015 NSR action, we found that the ADEQ's 2012 NSR submittal did not describe how the state law exemption for small fuel burning equipment applied in the context of its NSR program. Further, to the extent the ADEQ's NSR program exempts some sources from minor NSR review under the state law exemption, we found that the ADEQ needed to provide an adequate justification under 40 CFR 51.160(e).[48]

In the 2020 Minor NSR submittal, the ADEQ confirmed that it interprets the exemption as (1) being available only to those stationary sources that consists ''*solely* of equipment with a *cumulative* heat input rate'' of less than 1 MMBtu/hr, and (2) having already been effectively SIP-approved by the EPA because all such equipment falls under the ADEQ's existing SIP-approved exemption for ''categorically exempt activities'' at R18–2–302(C)(1) and R18–2–101(23).[49]

As explained by the ADEQ in the 2020 Minor NSR submittal, the EPA reviewed the ADEQ's permitting and registration exemption for ''categorically exempt activities'' in our 2015 NSR action. R18–2–302(C) provides that a stationary source that consists solely of a single ''categorically exempt activity'' plus any combination of trivial activities [50] does not require a permit or registration, unless the source is a major source or operation without a permit would result in a violation of the Act. The ADEQ defines a ''categorially exempt activity'' at R18–2–101(24) and it includes various categories of smaller fuel-burning equipment. For example, one category is ''any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horsepower'' and another is ''any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr.'' The ADEQ explained in its 2012 NSR SIP submittal how the cumulative heat input or power rating

[44] 2020 Minor NSR submittal at 12–13.

[45] Section 4.2.5 of the 2020 Minor NSR submittal at 12; see also the detailed discussion in section 4.2.5 of the 2020 Minor NSR submittal at 12–13.

[46] On the issue of the NSPS standards not applying during periods of startup, shutdown, or malfunction (we disagree with this broad categorization), while the NAAQS do, we believe the commenters misunderstand how the ADEQ's permitting program works and how the normal farm operations exemption would apply to a source that includes equipment subject to an NSPS. The ADEQ does not allow stationary sources to use the agricultural equipment exemption to avoid NSR review if the stationary source is also subject to a standard under 40 CFR parts 60, 61, or 63. This means that the entire stationary source becomes subject to the ADEQ's permitting program, including potential NAAQS reviews for new or modified sources, if even a single piece of equipment is subject to an NSPS. The way the various NSPS apply in general during periods of startup, shutdown, or malfunction is not germane to the scope of the normal farm operations exemption.

[47] 2020 Minor NSR submittal at 9.

[48] See section 5.2.2.3 of the EPA's 2015 TSD at 26–27; 80 FR 67319, 67323.

[49] See section 4.3 of the 2020 Minor NSR submittal at 13–14.

[50] Trivial activities under the ADEQ's permitting program are defined R18–2–101(146).

for each category of equipment was determined by estimating the worst-case potential emissions for the category and ensuring that such emissions would be below the ADEQ's permitting exemption thresholds.[51] With this clarification, we approved of the ''categorically exempt activities'' in the 2015 NSR action.[52] To illustrate this concept, the 2020 Minor NSR submittal also contains a sample calculation for a boiler burning No. 6 fuel oil with a heat input rating of 10 MMBtu/hr. The sample calculation shows that potential emissions of $NO_X$ from such equipment would be 16.1 tons per year and below the ADEQ's 20 tpy minor NSR permitting exemption threshold for $NO_X$. Accordingly, the smaller fuel-burning equipment, rated less than 1 MMBtu/hr, that is exempt under ARS section 49–426(B) would have emissions well below the ADEQ's approved permitting exemption thresholds, and therefore would not otherwise require a permit or registration under the ADEQ's program. The ADEQ explains that the purpose of the exemption for categorically exempt activities is to allow such low-emitting small fuel-burning installations, which would not in any case require a permit, to avoid having to perform unnecessary emissions calculations.[53]

Given the rationale provided by the ADEQ, and our prior review and approval under 40 CFR 51.160(e) of the ADEQ's exemption of ''categorically exempt activities'' under its minor NSR program, we disagree with the commenters that the ADEQ has not adequately justified the state law exemption.[54] The ADEQ has demonstrated that fuel burning equipment rated less than 1 MMBtu/hr is equipment that falls within the existing SIP-approved category of ''categorically exempt activities,'' and also that it is equipment that would otherwise not require a permit or registration compared to the ADEQ's approved [55] permitting thresholds. In sum, the state law exemption for small fueling burning equipment has previously been determined by the EPA to be inconsequential to attainment and maintenance of the NAAQS, and the commenters have not provided information demonstrating why they believe this exemption is not protective of the NAAQS, or otherwise provided information that calls into question our previous approval of the ADEQ's exemption for categorically exempt activities under 40 CFR 51.160(e).

*Comment:* The ADEQ states that its NSR program applies to the areas of the State where the ADEQ has permitting jurisdiction (all counties in Arizona other than Maricopa, Pima, and Pinal, except where the ADEQ asserts jurisdiction). The commenters state that the ADEQ should explain whether the minor NSR programs in Maricopa, Pima, and Pinal counties are SIP-approved and meet all CAA requirements. To the extent they do not, the ADEQ should fix any deficiencies with the 2020 Minor NSR submittal.

*Response:* As the commenters note, the 2020 Minor NSR submittal, and the requirements therein relating to the ADEQ's minor NSR permitting program, are applicable only to those portions of the Arizona SIP where the ADEQ has minor NSR permitting jurisdiction. The EPA reviewed the ADEQ's submitted SIP revision and determined that it complies with all relevant CAA requirements for approval into the Arizona SIP. In addition, this revision will correct several outstanding deficiencies in the ADEQ's minor NSR program that were previously identified by the EPA. The commenters' questions about the sufficiency of the minor NSR permitting programs for other areas and sources within Arizona that are within the jurisdiction of Maricopa, Pima, and Pinal counties, and which are not covered by ADEQ's minor NSR program, are not germane to the EPA's current SIP action on the 2020 Minor NSR submittal. The CAA does not require that the ADEQ (or the EPA) address all components of the minor NSR program implemented by all permitting authorities in Arizona in any particular SIP action.

## III. EPA Action

No comments changed our assessment of our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the ADEQ's 2019–20 NSR submittals, specifically including the 2020 Minor NSR submittal and the Ammonia $PM_{2.5}$ NSR submittal. We find that the ADEQ has corrected all remaining deficiencies identified as the bases for our final limited disapproval of the ADEQ's NSR program in our 2015 NSR action and the basis for our conditional approval of the ADEQ's NNSR program in our 2018 Major NSR action. Thus, the issues that formed the basis for our final limited disapproval in 2015 of the ADEQ's minor NSR, PSD, and NNSR programs and our conditional approval in 2018 of the ADEQ's NNSR program are now fully resolved. Our final action updates the ADEQ's SIP-approved NSR program, corrects previously identified deficiencies, and recognizes that the ADEQ's NSR program also satisfies the CAA visibility requirements in 40 CFR 51.307. Additionally, the sanctions and sanctions clocks triggered by our 2016 $PM_{2.5}$ precursor action for the West Pinal and Nogales $PM_{2.5}$ nonattainment areas will be permanently terminated on the effective date of this final approval action.

This action approves the rules listed in Table 1 of this notice into the ADEQ portion of the Arizona SIP and removes or supersedes the rules listed in Table 2 of this notice from the ADEQ portion of the Arizona SIP. We are also revising 40 CFR 52.119 to remove the conditional approval of the State's plan related to ammonia as a $PM_{2.5}$ precursor, as we are now fully approving this component of the State's plan. Finally, in conjunction with the EPA's SIP approval of the ADEQ's visibility program for sources subject to the ADEQ's PSD and NNSR programs, we are revising 40 CFR 52.145(b) to remove the visibility FIP at 40 CFR 52.27, as well as the visibility FIP at 40 CFR 52.28 for those stationary sources subject to the ADEQ's permitting jurisdiction, as these FIPs are no longer applicable.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the ADEQ rules described in the amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[56] The EPA has made, and will continue to make, these documents available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER**

[51] See Appendix A to the 2012 NSR SIP submittal at 1570 and 1571.

[52] EPA's 2015 TSD at 25.

[53] Section 4.3 of 2020 Minor NSR submittal at 13–14.

[54] The commenters specifically identified ''modeling'' as an example of the type of evidence to support this exemption. Modeling was not required to make this demonstration.

[55] In our 2015 NSR action, we approved of the ADEQ's ''permitting exemption thresholds'' for each regulated pollutant, except $PM_{2.5}$, and our approval of the thresholds was limited to their application in attainment areas. With today's action, we are now also approving the thresholds as they apply to $PM_{2.5}$ and nonattainment areas.

[56] 62 FR 27968 (May 22, 1997).

**INFORMATION CONTACT** section of this preamble for more information).

Also in this document, as described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions from the EPA-approved rules for the ADEQ portion of the Arizona SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Sulfur dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 8, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

Accordingly, EPA amends Part 52, Chapter I, Title 40 of the Code of Federal Regulations as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

## Subpart D—Arizona

### § 52.119 [Amended]

■ 2. In § 52.119, remove and reserve paragraph (a).

■ 3. In § 52.120, paragraph (c), Table 2 is amended:

■ a. Under the heading ''Title 9, Chapter 3'', by removing the center heading ''Article 2'' and the entry for ''R9–3–217, paragraph A'';

■ b. Under the heading ''Title 18, Chapter 2, Article 1 (General)'', by revising the entry for ''R18–2–101 (except 20)'';

■ c. Under heading ''Title 18, Chapter 2, Article 3 (Permits and Permit Revisions)'', by:

■ i. Revising the entries for ''R18–2–301,'' ''R18–2–302,'' ''R18–2–302.01,'' ''R18–2–304,'' ''R18–2–306,'' ''R18–2–306.01'';

■ ii. Adding, in numerical order, entries for ''R18–2–317,' ''R18–2–317.01,'' and ''R18–2–317.02''; and

■ iii. Revising the entries for ''R18–2–319,'' ''R18–2–320,'' and ''R18–2–334''; and

■ d. Under the heading ''Title 18, Chapter 2, Article 4 (Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources)'', by revising the entry for ''R18–2–406.''

The additions and revisions read as follows:

### § 52.120 Identification of plan.

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Article 1 (General)** | | | | |
| R18–2–101 (except 20). | Definitions ..... | February 1, 2020 ... | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Article 3 (Permits and Permit Revisions)** | | | | |
| R18–2–301 | Definitions | February 1, 2020 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–302 | Applicability; Registration; Classes of Permits. | March 21, 2017 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–302.01 | Source Registration Requirements | February 1, 2020 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| * | * | * | * | * |
| R18–2–304 | Permit Application Processing Procedures. | February 1, 2020 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–306 | Permit Contents | March 21, 2017 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–306.01 | Permits Containing Voluntarily Accepted Emission Limitations and Standards. | March 21, 2017 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| * | * | * | * | * |
| R18–2–317 | Facility Changes Allowed Without Permit Revisions—Class I. | August 7, 2012 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–317.01 | Facility Changes that Require a Permit Revision—Class II. | August 7, 2012 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–317.02 | Procedures for Certain Changes that Do Not Require a Permit Revision—Class II. | August 7, 2012 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–319 | Minor Permit Revisions | March 21, 2017 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| R18–2–320 | Significant Permit Revisions | March 21, 2017 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| * | * | * | * | * |
| R18–2–334 | Minor New Source Review | February 1, 2020 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| **Article 4 (Permit Requirements for New Major Sources and Major Modifications to Existing Major Sources)** | | | | |
| * | * | * | * | * |
| R18–2–406 | Permit Requirements for Sources Located in Attainment and Unclassifiable Areas. | February 1, 2020 | [INSERT **Federal Register** CITATION], June 16, 2021. | Submitted on July 22, 2020. |
| * | * | * | * | * |

* * * * *

■ 4. In § 52.145, revise paragraph (b) to read as follows:

**§ 52.145 Visibility protection.**

* * * * *

(b) *Regulations for visibility new source review.* The provisions of § 52.28 are hereby incorporated and made part of the applicable plan for the State of Arizona only for those stationary sources under the permitting jurisdiction of the Pima County Department of Environmental Quality or the Maricopa County Air Quality Department. The provisions of § 52.28 also remain the applicable plan for any Indian reservation lands, and any other area of Indian country where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, located within the State of Arizona.

* * * * *

[FR Doc. 2021–12431 Filed 6–15–21; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 141 and 142

**[EPA–HQ–OW–2017–0300; FRL–10024–33–OW]**

**RIN 2040–AG15**

## National Primary Drinking Water Regulations: Lead and Copper Rule Revisions; Delay of Effective and Compliance Dates

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is delaying until December 16, 2021, the effective date of the National Primary Drinking Water

Regulations: Lead and Copper Rule Revisions (LCRR), which was published in the **Federal Register** on January 15, 2021. EPA is also delaying the January 16, 2024 compliance date established in the LCRR to October 16, 2024. The delay in the effective date is consistent with presidential directives issued on January 20, 2021, to the heads of Federal agencies to review certain regulations, including the LCRR. The delay will allow sufficient time for EPA to complete its review of the rule in accordance with those directives and conduct important consultations with affected parties. The delay in the compliance date of the LCRR ensures that any delay in the effective date will not reduce the time provided for drinking water systems and primacy states to take actions needed to assure compliance with the LCRR.

**DATES:** *Effective date:* This final rule is effective December 16, 2021.

*Delayed effective date:* As of June 16, 2021, the effective date of the final rule published on January 15, 2021, at 86 FR 4198, and then delayed in a rule published March 12, 2021, at 86 FR 14003, is furthered delayed until December 16, 2021.

*Compliance date:* The compliance date for the final rule published on January 15, 2021, at 86 FR 4198, is delayed until October 16, 2024.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2017–0300. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Kempic, Standards and Risk Management Division, Office of Ground Water and Drinking Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave NW, Mail Code 4607M, Washington, D.C. 20460; telephone number: (202) 564–4880 (TTY 800–877–8339); email address: *kempic.jeffrey@epa.gov.* For more information visit *https://www.epa.gov/dwreginfo/lead-and-copper-rule.*

**SUPPLEMENTARY INFORMATION:**

## I. Purpose of the Regulatory Action

On January 15, 2021, EPA published in the **Federal Register** the ''National Primary Drinking Water Regulation: Lead and Copper Rule Revisions'' (86 FR 4198) (LCRR) with an effective date of March 16, 2021, and a compliance date of January 16, 2024. On January 20, 2021, President Biden issued the ''Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' (86 FR 7037, January 25, 2021) (Executive Order 13990). Section 1 of Executive Order 13990 states that our nation has an abiding commitment to empower our workers and communities; promote and protect our public health and the environment; and conserve our national treasures and monuments, places that secure our national memory. Where the Federal Government has failed to meet that commitment in the past, it must advance environmental justice. In carrying out this charge, the Federal Government must be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making. It is, therefore, the policy of the Administration to listen to the science, to improve public health and protect our environment, to ensure access to clean air and water, to limit exposure to dangerous chemicals and pesticides, to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities, to reduce greenhouse gas emissions, to bolster resilience to the impacts of climate change, to restore and expand our national treasures and monuments, and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals. Section 2 of Executive Order 13990 directs the heads of all Federal agencies to immediately review regulations that may be inconsistent with, or present obstacles to, the policy set forth in Section 1 of Executive Order 13990. The January 20, 2021 White House ''Fact Sheet: List of Agency Actions for Review,'' identified the LCRR as an agency action to be reviewed in conformance with Executive Order 13990 (*https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/*).

In conducting its review, EPA will carefully consider the concerns raised by stakeholders, including disadvantaged communities that have been disproportionately impacted, states that administer national primary drinking water regulations, consumer and environmental organizations, water systems, and other organizations.

Stakeholders have a range of concerns about the LCRR. For example, a primary source of lead exposure in drinking water is lead service lines. Stakeholders have raised concerns that despite the significance of this source of lead, the LCRR fails to require, or create adequate incentives, for public water systems to replace all of their lead service lines. In addition, stakeholders have raised concerns that portions of many lead service lines are privately owned and disadvantaged homeowners may not be able to afford the cost of replacing their portion of the lead service line and may not have this significant source of lead exposure removed if their water system does not provide financial assistance. Other stakeholders have raised concerns regarding the significant costs public water systems and communities would face to replace all lead service lines. Based upon information from the Economic Analysis for the Final Lead and Copper Rule, EPA estimates that there are between 6.3 and 9.3 million lead service lines nationally and the cost of replacing all of these lines is between $25 and $56 billion.

Another key element of the LCRR relates to requiring public water systems to conduct an inventory of lead service lines so that systems know the scope of the problem, can identify potential sampling locations, and can communicate with households that are or may be served by lead service lines to inform them of the actions they may take to reduce their risks. Some stakeholders have raised concerns that the LCRR's inventory requirements are not sufficiently rigorous to ensure that consumers have access to useful information about the locations of lead service lines in their community. Other stakeholders have raised concerns that water systems do not have accurate records about the composition of privately owned portions of lead service lines and also concerns about public water systems publicly releasing information regarding privately owned property.

A core component of the LCRR is maintaining an ''action level'' of 15 parts per billion (ppb), which serves as a trigger for certain actions by public water systems such as lead service line replacement and public education. The LCRR did not modify the existing lead action level but established a 10 ppb ''trigger level'' to require public water systems to initiate actions to decrease their lead levels and take proactive steps to remove lead from the distribution system. Some stakeholders support this new trigger level, while others argue

that EPA has unnecessarily complicated the regulation. Some stakeholders suggest that the agency should eliminate the new trigger level and instead lower the 15 ppb action level.

Some stakeholders have indicated that the agency has provided too much flexibility for small water systems and that it is feasible for many of the systems serving 10,000 or fewer customers to take more actions to reduce drinking water lead levels than those actions under the LCRR. Other stakeholders have highlighted the limited technical, managerial, and financial capacity of small water systems and support the flexibilities provided by the LCRR to all of these small systems.

Stakeholders have divergent views of the school and childcare sampling provisions of the LCRR; some believe that the sampling should be more extensive, while others do not believe that community water systems should be responsible for provisions and that such a program would be more effectively carried out by the school and childcare facilities.

Finally, some stakeholders have expressed concerns that the agency did not provide adequate opportunities for a public hearing and did not provide a complete or reliable evaluation of the costs and benefits of the proposed LCRR.

In addition, the LCRR has been challenged in court by the Natural Resources Defense Council, Newburgh Clean Water Project, NAACP, Sierra Club, United Parents Against Lead, and the Attorneys General of New York, California, Illinois, Maryland, Minnesota, New Jersey, Oregon, Pennsylvania, Wisconsin, and the District of Columbia. Those cases have been consolidated in *Newburgh Clean Water Project, et al.* v *EPA,* No. 21–1019 (D.C. Cir.). EPA also received a letter on March 4, 2021, from 36 organizations and 5 individuals requesting that EPA suspend the March 16, 2021 effective date of the LCRR to review the rule and initiate a new rulemaking. EPA also received a letter on February 4, 2021, from the American Water Works Association requesting that EPA not delay the rule.

Consistent with Executive Order 13990 and the Memorandum for the Heads of Executive Departments and Agencies titled, ''Regulatory Freeze Pending Review'' (86 FR 7424, January 28, 2021), EPA decided to review the LCRR. EPA published a final rule on March 12, 2021 (86 FR 14003), which provided for a short delay of the LCRR's effective date from March 16, 2021 to June 17, 2021, to allow the agency to seek comment on a separate proposal, also published on March 12, 2021 (86 FR 14063), to extend the effective date further to December 16, 2021. EPA explained that the further delay was needed to allow the agency adequate time to conduct a thorough review of the complex set of LCRR requirements and to assess whether the regulatory changes are inconsistent with, or present obstacles to, the policy set forth in Section 1 of Executive Order 13990, and to consult with stakeholders, including those who have been historically underserved by, or subject to discrimination in, Federal policies and programs prior to the LCRR going into effect. In the proposal, EPA also sought comment on an extension of the compliance dates by nine months from January 16, 2024, to September 16, 2024.

The LCRR's effective date (*i.e.,* when the rule is codified into the *Code of Federal Regulations*) is different from the compliance dates. Section 1412(b)(10) of the Safe Drinking Water Act (SDWA) specifies that drinking water regulations shall generally take effect (*i.e.,* require compliance) three years after the date the regulation is promulgated.[1] This 3-year period is used by states to adopt laws and regulations in order to obtain primary enforcement responsibility (primacy) for the rule and by water systems to take any necessary actions to meet the compliance deadlines in the rule. EPA is extending the January 16, 2024 compliance date in the LCRR by nine months to October 16, 2024, to correspond to the delay in the effective date. EPA set the compliance date to October 16, 2024, to be consistent with its intent, described in the proposal, to provide a full nine month delay, to maintain the same time period between the effective date and the compliance date in the LCRR, published on January 15, 2021. EPA expects that the duration of the compliance date extension will provide drinking water systems with adequate time to take actions needed to assure compliance with the LCRR after it takes effect.

EPA recognizes that under Section 1413(a)(1) and 40 CFR 142.12(b), states must submit complete and final requests for approval of program revisions to adopt new or revised EPA regulations not later than two years after promulgation of the LCRR (with the possibility for an extension of up to two years based on certain criteria in EPA's regulations). After completion of the stakeholder engagement process, EPA will consider whether to let the rule take effect on December 16, 2021, with a compliance deadline of October 16, 2024, or whether the agency intends to initiate a new rulemaking to withdraw or modify the LCRR. At that time, EPA and states will have greater clarity with respect to the primary enforcement (primacy) application process and relevant timeframes. If EPA decides to withdraw the LCRR before it takes effect, then there will be no revised regulation that triggers the duty for primacy agencies to submit a program revision to EPA since the previous regulation (*i.e.,* those regulations that are in place until such time that the LCRR takes effect) will remain in effect. If EPA modifies the LCRR, the agency will establish a new deadline for primacy applications as a part of that regulatory action. If EPA decides to make no further changes to the rule, the agency intends to use the date on which EPA announces that decision in the **Federal Register**—no later than December 16, 2021—as the promulgation date for the LCRR for purposes of the primacy revision application deadline under 40 CFR 142.12(b)(1). Accordingly, EPA recommends that states consider each of these possibilities in their planning and resource allocation decision-making and that states do not submit primacy applications to the agency at this time because EPA is not expecting to begin review of primacy packages until there is more certainty as to the agency's path forward on the LCRR.

## II. Importance of EPA's Review of the LCRR for Protection of Public Health

The impact of lead exposure, including from drinking water, is a public health issue of paramount importance and its adverse effects on children and the general population are serious and well known. For example, exposure to lead is known to present serious health risks to the brain and nervous system of children. Lead exposure causes damage to the brain and kidneys and can interfere with the production of red blood cells that carry oxygen to all parts of the body. Lead has acute and chronic impacts on the body. The most robustly studied and most susceptible subpopulations are the developing fetus, infants, and young children. Even low-level lead exposure is of particular concern to children because their growing bodies absorb

[1] In this action, EPA uses the term ''compliance date'' to refer to the date water systems must comply with national primary drinking water regulations (referred to as the ''effective date'' in Section 1412(b)(10) of the SDWA) and the term ''effective date'' to refer to when the rule is codified into the *Code of Federal Regulations* (see Section 553(d) of the Administrative Procedure Act and 1 CFR 18.17).

more lead than adults do, and their brains and nervous systems are more sensitive to the damaging effects of lead. EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead. Infants who consume mostly formula mixed with tap water can, depending on the level of lead in the system and other sources of lead in the home, receive 40 to 60 percent of their exposure to lead from drinking water used in the formula. Scientists have linked lead's effects on the brain with lowered intelligence quotient (IQ) and attention disorders in children. Young children and infants are particularly vulnerable to lead because the physical and behavioral effects of lead occur at lower exposure levels in children than in adults. During pregnancy, lead exposure may affect prenatal brain development. Lead is stored in the bones and it can be released later in life. Even at low levels of lead in blood, there is an increased risk of health effects in children (*e.g.,* less than 5 micrograms per deciliter) and adults (*e.g.,* less than 10 micrograms per deciliter).

The 2013 Integrated Science Assessment for Lead and the Health and Human Services National Toxicology Program Monograph on Health Effects of Low-Level Lead have both documented the association between lead and adverse cardiovascular effects, renal effects, reproductive effects, immunological effects, neurological effects, and cancer. EPA's Integrated Risk Information System (IRIS) Chemical Assessment Summary provides additional health effects information on lead.

Because of disparities in the quality of housing, community economic status, and access to medical care, lead in drinking water (and other media) disproportionately affects lower-income people. Minority and low-income children are more likely to live in proximity to lead-emitting industries and to live in urban areas, which are more likely to have contaminated soils, contributing to their overall exposure. Additionally, non-Hispanic black individuals are more than twice as likely as non-Hispanic whites to live in moderately or severely substandard housing, which is more likely to present risks from deteriorating lead based paint. The disparate exposure to all sources of environmental lead experienced by low-income and minority populations may be exacerbated because of their more limited resources for remediating lead service lines, which if present in a home, can be a significant source of lead exposure.

For example, stakeholders have raised concerns that, to the extent water systems rely on homeowners to pay for replacement of customer-owned portions of lines, lower-income homeowners may be unable to afford to replace lines, resulting in disparate levels of protection. In addition, a higher incidence of renting among lower-income people may prevent residents from removing lines where the property owner does not consent or finance replacement of the customer-owned portion of the line. Moreover, the crisis in Flint, Michigan, has brought increased attention to the challenge of lead in drinking water systems across the country.

Prior to EPA's actions to delay the effective and compliance dates of the LCRR, litigants and stakeholders had expressed a wide range of concerns about the LCRR's requirements that addressed both the rule's ability to protect public health and the implementation burden that will be placed on systems and states. Specific components of the rule for which concerns have been raised include: The 15 parts per billion (ppb) action level; the 10 ppb trigger level; the lead service line inventory requirements, the lead service line replacement requirements; the flexibility given to small systems; and the sampling of drinking water at schools and child care facilities.

Given the paramount significance to the public's health for ensuring that lead in drinking water is adequately addressed under the SDWA, and the concerns raised by litigants and other stakeholders about the LCRR, it is critically important that EPA's review of the LCRR be deliberate and have the benefit of meaningful engagement with the affected public, including overburdened and underserved communities disproportionately affected by exposure to lead, prior to the rule going into effect.

## III. Summary of Public Comments on the Extension of the Effective and Compliance Dates of the LCRR and EPA's Responses

In the proposed rulemaking, EPA solicited public comment on ''the duration of the effective date and compliance date extensions and whether the compliance date extension should apply to the entire LCRR or certain components of the final rule.'' A summary of the comments received on the extensions, as well as the agency's responses is provided in this section.

The majority of commenters expressed support for the delay of the effective and compliance dates of the LCRR. These commenters, representing states, water systems, environmental and public health organizations, provided a number of reasons for their support as well as suggestions for how EPA should utilize the additional time. Commenters indicated that the delay would allow time for the agency to conduct a more thorough and complete review, collect and analyze new data, engage with stakeholders, and hold public meetings to solicit further comment on the LCRR as it relates to state and local implementation of drinking water standards, public health protections, lead in school drinking water issues, and specifically to listen to people who are living in communities disproportionately affected by exposure to lead and underserved communities suffering from lead-contaminated drinking water about their recommendations for the rule. Several commenters urged EPA to suspend the March 16, 2021 effective date of the LCRR to review the rule and initiate a new rulemaking to address issues with the rule published in the **Federal Register** on January 15, 2021 at 86 FR 4198. Commenters also expressed support for the 9-month compliance date extension from the current compliance date of January 16, 2024. Commenters stated that if the rule's effective date were delayed from March 16, 2021, to December 16, 2021, the compliance date should be delayed the same amount of time, ensuring that utilities do not lose any of the time they had been expecting to have available to implement the rule once there is regulatory certainty. Additional commenters indicated that the extension of the compliance date would allow resource-constrained systems and communities needed time to implement the regulatory requirements of the LCRR in general, and more specifically, the lead service line (LSL) inventory and school and child care facility monitoring requirements. Two commenters indicated that the compliance date should be delayed as long as possible.

EPA agrees with commenters that support a delay of the effective date of the LCRR to December 16, 2021. This time is necessary and sufficient to accommodate a thorough review of the requirements of the LCRR and engage with a wide range of stakeholders, including disproportionally affected and underserved communities on the issue of controlling lead in drinking water. The additional 6-month delay of the June 17, 2021 effective date to December 16, 2021, is necessary to develop, publicize, and implement a public engagement process that accommodates

the significant and widespread public interest in this rulemaking, coupled with the time needed to compile and evaluate input received during the public engagement process and make a decision as to whether to let the LCRR as published take effect or initiate a rulemaking to withdraw or modify the rule. EPA is currently implementing a public engagement plan that includes public listening sessions, community, tribal, and stakeholder roundtables, and a co-regulator meeting in addition to receiving written public comment on the LCRR as part of its engagement process. EPA believes that the extension of the effective date to December 16, 2021, is sufficient for the review of the LCRR in accordance with Executive Order 13990.

EPA also agrees with commenters that support the 9-month delay of the compliance date. The SDWA typically provides a 3-year time period for drinking water systems and states to assure compliance with new or revised drinking water standards. If the compliance date is not delayed, systems and states would expend resources now to assure compliance with the LCRR by January 16, 2024, particularly given the significant effort required to develop the LSL inventory, LSL replacement plan, and to re-evaluate the tap sampling locations used in their sampling pool, all of which are required before the compliance date and underpin the implementation of the larger requirements of the LCRR. EPA estimated in the economic analysis of the final LCRR that systems and states would spend between $57–60 million, in 2016 dollars, in the first year following promulgation of the rule, working towards compliance by January 16, 2024. The majority of these funds are spent by systems to read and understand the new regulatory requirements, develop implementation plans, train staff, and participate in trainings and technical assistance interactions with the states; and by states to adopt the rule and develop the changes needed to their implementation programs, modify their data systems, provide training to their staff, and provide training and technical assistance to the regulated systems.

If EPA determines to initiate a rulemaking to withdraw the LCRR or significantly revise it as a result of the Executive Order 13990 review process, then these compliance expenditures might be unnecessary to comply with applicable regulatory requirements. Without a delay in the effective and compliance dates of the rule, states and regulated entities may make decisions and spend scarce resources on compliance obligations that could change at the end of EPA's review period. To avoid imposing unnecessary costs on water systems and states, and to allow systems and states sufficient time to prepare for compliance once regulatory certainty has been achieved, EPA has determined to delay both the effective and compliance dates of the LCRR to December 16, 2021, and October 16, 2024, respectively.

EPA received a small number of comment letters that, in general, supported a delay in the effective date and compliance dates, but did not want the agency to delay the implementation of some of the regulatory requirements they felt would increase public health protection. These commenters indicated that the following improvements could be implemented during EPA's reconsideration of the other aspects of the LCRR: The LSL inventory requirements, improved corrosion control treatment requirements, and strengthened monitoring provisions, including provisions that would prevent sampling that is likely to underestimate the actual lead levels in drinking water. Other commenters indicated that any delay to the LCRR effective date and compliance date must apply to the entire LCRR given the interrelated nature of the different aspects of the rule. According to these commenters, having the compliance date extension apply to the LCRR in its entirety will simplify communication, reduce complexity and confusion, improve compliance by the regulated community, and provide additional time to obtain the data management tools and resources required to implement the rule.

Because there is only one effective date for the LCRR, it can take effect or be withdrawn only in its entirety. EPA cannot selectively allow some aspects of the rule to become effective in advance of other parts of the rule without undertaking a separate notice and comment rulemaking. While EPA could establish different compliance dates for different parts of the LCRR as part of a notice and comment rulemaking, the agency has determined not to do so at this time because it would pre-determine the outcome of the public stakeholder process, create confusion for implementing authorities and regulated entities, impose potentially unnecessary costs, and undermine the re-evaluation process by diverting agency and stakeholder resources that would otherwise be devoted to the re-evaluation process. EPA is currently seeking input on all aspects of the rule as part of the stakeholder engagement process. To proceed with implementation of selected portions of the rule during EPA's review of the entire rule would be both impractical and inconsistent with the agency's stated intention to re-evaluate the LCRR in light of stakeholder input on the entire LCRR. Moreover, as explained in the proposal, stakeholders have raised concerns with nearly all aspects of the LCRR, including the LSL inventory requirements. Therefore, EPA has determined to delay the effective date and all of the compliance dates in the rule at this time.

EPA received a total of four comment letters indicating opposition to the extensions of the effective and compliance dates, and an additional two that did not explicitly support or oppose the delay in the effective and compliance dates of the LCRR. In general, the commenters opposing the extensions stated that delaying the effective and compliance dates would delay the public health improvements that would be achieved with implementing the LCRR, in part or in total, as finalized on January 15, 2021.

The comments opposing a delay in the compliance deadline include the following, from the Association of Metropolitan Water Agencies (AMWA), which stated that it ''has concerns that EPA's proposal to delay the effective date . . . would postpone the significant public health improvements that will be achieved by implementing the rule as finalized.'' They go on to state, ''the benefits of this [delay] must be weighed against the costs of postponing the public health improvements that will be achieved when water systems begin to comply with the final rule in its current form.'' AMWA identifies the customer-initiated LSL replacement provision, the LSL inventory, and the school and child-care testing provisions as public health improvements that would be postponed by a delay of the rule effective and compliance dates. Also, the Kentucky and Tennessee Water Utility Councils (KY/TN WUC) of the American Water Works Association stated that they ''are concerned that extending the dates of the Rule could delay the enhanced awareness, detection, communication, and elimination of potential lead exposure in communities.'' Another public commenter opposed the effective and compliance date extensions, arguing that EPA should instead simultaneously implement and revise the LCRR because of certain aspects of the rule that the commenter claims ''would provide immediate public health benefits''—such as the LSL inventory and associated public

notification requirements, as well as changes in the sampling requirements.

Similarly, one anonymous commenter argued that to delay the rule is tantamount to repeal of the rule and that EPA has not analyzed the effects on human health of the delay that the LCRR was designed to benefit, or considered why it is worth forgoing the benefits of the rule for nine months in exchange for evaluation of the LCRR which, the commenter claims, could be done without delaying the compliance dates. The commenter also claims that EPA has failed to provide a meaningful opportunity for the public to comment ''[b]ecause of these substantive oversights, including the failure to consider the merits of the LCRR and the deficiencies of the preexisting requirements in its proposal that would allow those preexisting requirements to remain in effect for a longer period of time.''

The KY/TN WUC opposed the delay of the LCRR effective and compliance dates, noting that EPA has already conducted extensive outreach during the development of the LCRR, stating, ''EPA's thorough and extensive review and stakeholder engagement process resulted in a final Rule that strengthens every aspect of the current rule and accelerates actions that can reduce lead in drinking water.'' This concept of EPA having already conducted extensive outreach was echoed by AMWA, noting that the agency ''has been discussing options for the rule with these communities, other stakeholders, and the public since at least 2010.'' However, AMWA ''agrees that engagement with at-risk communities is critical.'' The commenter opposing the delay and arguing that EPA should simultaneously implement and revise the LCRR, also expressed support for EPA's effort to seek additional stakeholder input on the LCRR. Another comment letter, from the American Water Works Association (AWWA) recommended that EPA consider the extensive outreach that the agency has already conducted on the LCRR.

EPA received two comment letters that did not explicitly support or oppose the delay in the effective and compliance dates of the LCRR. One comment letter, jointly signed by the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties, indicated that the LCRR as published on January 15, 2021, at 86 FR 4198 ''satisfactorily addressed the local government perspective in both protecting public health and reducing lead contamination of drinking water.'' Another comment letter from AWWA requests that the effective and compliance dates be extended in an amount commensurate with the additional time used for stakeholder outreach. AWWA noted that the ''[u]ncertainty . . . which is naturally generated through reconsideration efforts'' will make it difficult for public water systems to prepare for compliance and make investments needed to meet the interrelated requirements of the rule, as such efforts may prove to be wasted or wasteful if the Rule ultimately changes in its particulars.'' Accordingly, AWWA requests that ''all extensions to the effective date of the LCRR and any subsequent agency activity that seeks to change the LCRR should be accompanied by an extension to the compliance timeframes.'' AMWA, though opposing the delays in the LCRR implementation, also expressed support for an extension of the compliance dates by nine months if EPA delays the June 17, 2021 effective date of the rule.

For reasons discussed in the proposal and this action, EPA disagrees with the commenters asserting that the LCRR, as published on January 15, 2021, at 86 FR 4198, should take effect on June 17, 2021. EPA provided a reasoned explanation in the proposal for the delayed effective and compliance dates while the agency conducts this re-evaluation. The explanation identified EPA's concern that water systems and states could unnecessarily expend significant resources on compliance with a rule that may ultimately be withdrawn or substantially modified and, which many commenters have urged, may not be a sufficient improvement in public health protection in comparison to the existing protection of the LCR, or even possibly reduce public health protections.

This action will enable EPA to engage with communities, stakeholders, tribes, and states to gather more information about their concerns with the LCRR and to share information about actions that can reduce drinking water lead exposure. The LCRR virtual engagement process is providing benefits in three ways. First, the engagement is increasing public and community awareness of the potential harmful health effects of lead and the ways individuals and communities may proactively reduce their exposure. Because the effective implementation of drinking water lead reduction requirements, such as LSL replacement, depends on the actions of both water systems and private citizens, the increased awareness fostered by EPA's LCRR review outreach activities will improve the implementation of the LCRR and/or a future lead in drinking water regulatory action. Second, the information gained by the agency from listening to the public and communities that have been dealing with lead in drinking water issues across the country will provide EPA with new information that will help in the development of more effective implementation guidance for the LCRR or any future revisions of the LCRR. Information gathered from this process may be especially useful for the guidance on developing the initial LSL inventory and the LSL replacement plan. Third, the delay of the effective date, to engage with communities, will allow the agency to potentially develop future regulatory revisions to the Lead and Copper Rule, consistent with Executive Order 13990, that will be more effective at reducing the lead in drinking water in real world communities and better at targeting disadvantaged underserved communities.

EPA's economic analysis of the LCRR supports the conclusion that the relatively-short delay in the effective date and compliance dates for this rule, in particular, will not significantly reduce the benefits of the LCRR. The economic analysis of the final LCRR estimated that the annual total incremental cost of the regulatory requirements, in 2016 dollars, would range from $161 to $335 million at the 3 percent discount rate, and $167 to $372 million at the 7 percent discount rate. The annual total incremental monetized benefits, in 2016 dollars, of the final rule were estimated to be between $223 to $645 million, at a 3 percent discount rate, and $39 to $119 million at the 7 percent discount rate. The delay of the original compliance date, of January 16, 2024, by nine months pushes back in time both the cost born by complying entities and the monetized benefits received by the public as a result of lower lead levels in drinking water, by nine months, assuming all other environmental and regulatory conditions remain the same. EPA selected the conservative assumption of modeling a one year delay in the regulatory costs and benefits impacts. The estimated annual total incremental cost of the rule given the one-year delay ranged from $153 to $320 million, at the 3 percent discount rate, and $155 to $346 million at the 7 percent discount rate, in 2016 dollars. The monetized annual incremental benefits, in 2016 dollars, given a one-year delay of the compliance date would range from $213 to $616 million, at the 3 percent discount rate, and $37 to $111 million at the 7 percent discount rate. The estimated change in the monetized

incremental annualized social costs and benefits of the delay in the compliance date are approximately of equal size over the 35-year period of analysis ($7 to $27 million for costs and $3 to $29 million for benefits in 2016 dollars), but, as previously discussed, the expected first year (post rule effective date) expenditures by systems and states would be between $57–60 million, in 2016 dollars. These first-year expenditures to prepare for regulatory compliance with the LCRR could be unnecessary if EPA determines to initiate a rulemaking to withdraw or significantly revise the LCRR as a result of the Executive Order 13990 review process. The estimated first year (post rule effective date) benefits are zero given that the regulatory requirements that produce monetized benefits are not implemented until the compliance date three years after the effective date.

Moreover, EPA notes that there is an existing National Primary Drinking Water Rule, the Lead and Copper Rule, that will continue to provide public health protection and benefits during this short delay in the most recent revisions to that rule. Water systems will continue to implement the LCR, which includes requirements to monitor for lead and optimize corrosion control treatment.

Given the relatively small impact to the stream of monetized social costs and benefits over the 35-year period of analysis, which has the potential to dramatically change based on the results of EPA's Executive Order 13990 review process, the significant and potentially unnecessary implementation expenses estimated in the first year following the original effective date, of March 16, 2021; the need to provide systems and states sufficient time to prepare for compliance; the potential positive gains to implementation and collection of new information; and, the existing safeguards to protect against lead contamination in drinking water, EPA has determined to delay both the effective and compliance dates of the LCRR to December 16, 2021, and October 16, 2024, respectively.

EPA also disagrees with those commenters that suggested EPA let the LCRR take effect on June 17, 2021, and then initiate a process to revise it. Although EPA carefully considered whether to allow the rule to take effect on June 17, 2021, while postponing the compliance dates for only certain aspects of the rule, EPA has determined not to do so at this time because it would pre-determine the outcome of the public stakeholder process, create confusion for implementing authorities and regulated entities, impose potentially unnecessary costs, and undermine the re-evaluation process by diverting EPA and stakeholder resources that would otherwise be devoted to the re-evaluation process. Moreover, as explained in the proposal, stakeholders have raised concerns with nearly all aspects of the LCRR, including the LSL inventory requirements. Accordingly, EPA has determined that this approach, to let the rule take effect while postponing compliance dates for some aspects of the rule, is not appropriate at this time.

EPA agrees that in developing the LCRR it has already conducted extensive stakeholder engagements. However, to the extent commenters are suggesting that additional stakeholder input is not warranted at this time, the agency disagrees. EPA did not conduct any public meetings on the LCRR revisions in the two years prior to promulgation of the final rule, which includes the time period between the proposal and the final rule. Similarly, in the two years preceding promulgation of the final rule, EPA did not conduct any targeted meetings to get input on the proposed revisions from communities historically underserved by, or subject to discrimination in, Federal policies and programs, or those communities that have been significantly affected by lead in drinking water. The information shared by these communities could prove to be valuable in understanding potential rule implementation issues that could lead to improved and more effective LCRR requirements and implementation guidance. As discussed previously, EPA agrees with commenters that the delay of the effective date warrants a delay in the compliance dates for the rule. EPA's re-evaluation of the LCRR creates regulatory uncertainty during the 3-year time period typically provided for drinking water systems and states to assure compliance with new or revised drinking water standards. If the compliance date is not delayed, systems and states would expend resources now, to assure compliance with the LCRR by January 16, 2024. EPA estimated in the economic analysis of the final LCRR that systems and states would spend between $57–60 million, in 2016 dollars, in the first year following promulgation of the rule working towards compliance. If EPA were to initiate a rulemaking to withdraw or significantly revise the LCRR, then these compliance expenditures would be unnecessary to comply with applicable regulatory requirements. Therefore, EPA is delaying the compliance date of the LCRR to October 16, 2024, to avoid imposing these potentially unnecessary costs on water systems and states, and to allow systems and states sufficient time to prepare for compliance once regulatory certainty has been achieved.

EPA has complied with the applicable Administrative Procedure Act and SDWA requirements for this rule. If EPA decides that further regulatory changes are necessary, EPA will comply with the applicable requirements of the Administrative Procedure Act and the SDWA, and conform to the relevant EOs, including EOs 13132 and 13175, regarding federalism and tribal consultations, respectively.

Many commenters on the proposal to extend the effective and compliance dates also provided input on all aspects of the LCRR, including the action and trigger levels, LSL inventories, LSL replacement requirements, as well as the requirements for optimal corrosion control treatment, tap sampling, public education and notification, and school sampling, and EPA's compliance with both the substantive and procedural requirements for promulgation of a revised drinking water regulation. The extent and breadth of these comments demonstrates the significant concern that stakeholders, from a range of perspectives, have with the LCRR and the procedures EPA followed in promulgating the rule. EPA appreciates this input on the LCRR and is considering these comments as part of its re-evaluation process.

## IV. Final Rule Revisions

This final rule extends the effective date of the National Primary Drinking Water Regulations: Lead and Copper Rule Revisions (LCRR) to December 16, 2021. This rule also extends the compliance date to October 16, 2024.

The significant factual, legal, and policy issues identified by stakeholders and litigants, and summarized in Section II of this document, warrant careful and considerate review of the rule, as well as relief from the compliance deadlines as EPA considers these issues. After publication of the final National Primary Drinking Water Regulation, states and water systems commence activities to achieve compliance with the rule by the deadline established in the LCRR based on the requirements of Section 1412(b)(10) of the SDWA. Under the final rule promulgated on January 15, 2021, water systems will begin the actions to prepare LSL inventories, and, as appropriate, to prepare LSL replacement plans. The postponement of compliance dates through this action is intended as a stopgap measure to prevent the unnecessary expenditure of

resources by water systems on those efforts until EPA completes its review of the LCRR and can provide some certainty that the regulatory requirements will not be changed. Without a delay in the effective and compliance dates of the rule, regulated entities may make decisions and spend scarce resources on compliance obligations that could change at the end of EPA's review period.

Section 1412(b)(9) of the SDWA authorizes EPA to review and revise national primary drinking water rules ''as appropriate'' and directs that any revision ''shall maintain, or provide for greater, protection of the health of persons.'' 42 U.S.C. 300g–1(b)(9). This delay is consistent with EPA's exercise of this discretionary authority to revise its drinking water rules.

EPA will engage with stakeholders during this time period to evaluate the rule and determine whether to initiate a process to revise components of the rule. If EPA decides to withdraw the LCRR, the agency will propose, take comment on, and issue a withdrawal prior to December 16, 2021. If EPA decides it is appropriate to modify the LCRR, it will consider whether those modifications warrant further extensions to compliance dates for the requirements that will be modified to provide time to promulgate those revisions before water systems and states must take actions to comply. If EPA decides to revise the LCRR, the agency will follow the requirements of the SDWA and other applicable statues and EOs to propose and promulgate those revisions.

## V. Compliance With the Administrative Procedure Act

Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect until 30 days after they are published in the **Federal Register**. The purpose of this APA provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when an agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. Thus, APA Section 553(d) allows an effective date less than 30 days after publication for any rule that ''grants or recognizes an exemption or relieves a restriction'' (see 5 U.S.C. 553(d)(1)). An accelerated effective date may also be appropriate for good cause pursuant to APA Section 553(d)(3) where an agency can ''balance the necessity for immediate implementation against principles of fundamental fairness, which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.'' Gavrilovic, 551 F.2d at 1105.

EPA has determined that this final rule is effective immediately upon publication because it relieves a restriction by extending the effective date and compliance deadlines of the LCRR, thereby providing water systems with additional time to come into compliance. In addition, there is good cause for immediate implementation of these provisions because, as previously explained, the impact of this rule is to ensure that water systems do not unnecessarily expend resources to come into compliance with the LCRR until EPA concludes its review and stakeholder engagement process and makes a decision as to whether to revise the LCRR in whole or in part or to let it take effect as published on January 15, 2021.

## VI. Statutory and Executive Order Reviews

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2040–0204. This action delays of the effective and compliance dates of the LCRR until December 16, 2021 and October 16, 2024, respectively, and does not alter any of the information collection activities required under the LCRR.

### *C. Regulatory Flexibility Act (RFA)*

EPA certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This action delays compliance with the regulatory requirements of the LCRR and does not impose any additional requirements on either large or small entities. EPA has therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

### *D. Unfunded Mandates Reform Act (UMRA)*

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

### *E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. The Executive order defines tribal implications as ''actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.'' The delay of the effective and compliance dates of the LCRR until December 16, 2021 and October 16, 2024, respectively, will not have a substantial direct effect on one or more tribes, change the relationship between the Federal Government and tribes, or affect the distribution of power and responsibilities between the Federal Government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are economically significant, per the definition of ''covered regulatory action'' in Section 2–202 of the Executive order. This

action is not subject to Executive Order 13045 because the delays of the effective and compliances dates, until December 16, 2021 and October 16, 2024, respectively, do not have a significant economic impact.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. EPA has concluded that the delay of the effective and compliance dates of the LCRR, which were published in the **Federal Register** on January 15, 2021, until December 16, 2021 and October 16, 2024, respectively, is not likely to have adverse energy effects. This conclusion is based on the fact that delaying the regulatory requirements of the LCRR will reduce near term demand for energy commodities that would be required to install and operate corrosion control equipment, remove LSLs, or produce and deliver public education materials.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

EPA believes that it is not feasible to determine whether this action has disproportionately high and adverse effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The purpose of this rule is to extend effective date of the LCRR to December 16, 2021, to allow EPA to conduct a review of the LCRR, under Executive Order 13990, and consult with stakeholders, including those who have been historically underserved by, or subject to discrimination in, Federal policies and programs prior to the LCRR going into effect. Because EPA is still in the collection process of potentially significant environmental justice information on the distributional impacts of drinking water lead-related regulatory requirements, it is not feasible to determine with certainty the impact of the delay of the effective and compliance dates of the LCRR.

*K. Congressional Review Act (CRA)*

This action is subject to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA), and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs has determined that this action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 141**

Environmental protection, Copper, Drinking water, Indians—lands, Intergovernmental relations, Lead, Lead service line, Reporting and recordkeeping requirements, Water supply.

**Michael S. Regan,**

*Administrator.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 141 as follows:

## PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

■ 1. The authority citation for part 141 continues to read as follows:

**Authority:** 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

■ 2. Amend § 141.80 by revising paragraphs (a)(2) through (4) to read as follows:

**§ 141.80 General requirements.**

(a) * * *

(2) The requirements of this subpart are effective as of December 16, 2021.

(3) Community water systems and non-transient, non-community water systems must comply with the requirements of this subpart no later than October 16, 2024, except where otherwise specified in §§ 141.81, 141.84, 141.85, 141.86, and 141.90, or where an exemption in accordance with 40 CFR part 142, subpart C or F, has been established by the Administrator.

(4)(i) Between December 16, 2021, and October 16, 2024, community water systems and non-transient, non-community water systems must comply with 40 CFR 141.80 through 141.91, as codified on July 1, 2020.

(ii) If an exemption from subpart I of this part has been issued in accordance with 40 CFR part 142, subpart C or F, prior to December 16, 2021, then the water systems must comply with 40 CFR 141.80 through 141.91, as codified on July 1, 2020, until the expiration of that exemption.

* * * * *

■ 3. Amend § 141.84 by revising paragraphs (a)(1) and (b) introductory text to read as follows:

**§ 141.84 Lead service line inventory and replacement requirements.**

(a) * * *

(1) All water systems must develop an initial inventory by October 16, 2024, and submit it to the primacy agency in accordance with § 141.90(e).

* * * * *

(b) *Lead service line replacement plan.* All water systems with one or more lead, galvanized requiring replacement, or lead status unknown service lines in their distribution system must, by October 16, 2024, submit a lead service line replacement plan to the State in accordance with § 141.90(e). The lead service line replacement plan must be sufficiently detailed to ensure a system is able to comply with the lead service line replacement requirements in accordance with this section. The plan must include a description of:

* * * * *

■ 4. Amend § 141.86 by revising paragraphs (d)(1)(i) and (d)(1)(ii) introductory text to read as follows:

**§ 141.86 Monitoring requirements for lead and copper in tap water.**

* * * * *

(d) * * *

(1) * * *

(i) All water systems with lead service lines, including those deemed optimized under § 141.81(b)(3), and systems that did not conduct monitoring that meets all requirements of this section (*e.g.,* sites selected in accordance with paragraph (a) of this section, samples collected in accordance with paragraph (b) of this section, etc.) between January 15, 2021, and October 16, 2024, must begin the first standard monitoring period on January 1 or July 1 in the year following October 16, 2024, whichever is sooner. Upon completion of this monitoring, systems must monitor in accordance with paragraph (d)(1)(ii) of this section.

(ii) Systems that conducted monitoring that meets all requirements of this section (*e.g.,* sites selected in accordance with paragraph (a) of this section, samples collected in accordance with paragraph (b) of this section, etc.) between January 15, 2021, and October 16, 2024, and systems that have completed monitoring under paragraph (d)(1)(i) of this section, must continue monitoring as follows:

* * * * *

■ 5. Amend § 141.90 by revising paragraphs (e)(1) and (2) to read to read as follows:

**§ 141.90 Reporting requirements.**

* * * * *

(e) * * *

(1) No later than October 16, 2024, the water system must submit to the State an inventory of service lines as required in § 141.84(a).

(2) No later than October 16, 2024, any water system that has inventoried a lead service line, galvanized requiring replacement, or lead status unknown service line in its distribution system must submit to the State, as specified in § 141.84(b), a lead service line replacement plan.

* * * * *

[FR Doc. 2021–12600 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2016–0073; FRL–10023–91]**

## Purpureocillium Lilacinum Strain PL11; Exemption From the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of *Purpureocillium lilacinum* strain PL11 in or on all food commodities when used in accordance with label directions and good agricultural practices. LAM International Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Purpureocillium lilacinum* strain PL11 under FFDCA when used in accordance with this exemption.

**DATES:** This regulation is effective June 16, 2021. Objections and requests for hearings must be received on or before August 16, 2021, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2016–0073, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2016–0073 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 16, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2016–0073, 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 CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *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.*

### II. Background

In the **Federal Register** of August 24, 2018 (83 FR 42818) (FRL–9982–37), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 8F8690) by LAM International Corporation, 117 South Parkmont St., Butte, MT 59701. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Purpureocillium lilacinum* strain PL11 in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner LAM International Corporation, which is available in the docket via *http://www.regulations.gov.* One comment was received on the notice of filing. EPA's

response to this comment is discussed in Unit III.C.

## III. Final Rule

### *A. EPA's Safety Determination*

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in making a safety determination to establish an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicity and exposure data on *Purpureocillium lilacinum* strain PL11 and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on that data can be found within the May 20, 2021, document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for *Purpureocillium lilacinum* strain PL11.'' This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that, with regard to humans, *Purpureocillium lilacinum* strain PL11 is not toxic, pathogenic, or infective via any reasonably foreseeable route of exposure. Although there may be dietary and non-occupational exposure to residues when *Purpureocillium lilacinum* strain PL11 is used on food commodities, there is not a concern due to the lack of potential for adverse effects. EPA also determined that retention of the Food Quality Protection Act safety factor for infants and children under FFDCA 408(b)(2)(C) was not necessary as part of the qualitative assessment conducted for *Purpureocillium lilacinum* strain PL11.

Based upon its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Purpureocillium lilacinum* strain PL11. Therefore, an exemption from the requirement of a tolerance is established for residues of *Purpureocillium lilacinum* strain PL11 in or on all food commodities when used in accordance with label directions and good agricultural practices.

### *B. Analytical Enforcement Methodology*

An analytical method for enforcement purposes is not required because EPA has determined that reasonably foreseeable exposure to residues of *Purpureocillium lilacinum* strain PL11 from use of the pesticide will be safe, due to lack of toxicity, pathogenicity, and infectivity. Under those circumstances, it is unnecessary to have an analytical method to monitor for residues.

### *C. Response to Comments*

One comment was received in response to the notice of filing. The comment discusses concerns regarding the use of ''GRAS'' (generally recognized as safe) determinations to support decisions regarding pesticide products and promotes a complete review of data. Consistent with FFDCA section 408(b)(2)(D), EPA reviews the available scientific data and other relevant information and considers their validity, completeness, and reliability, as well as the relationship of this information to human risk. EPA also considers available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. EPA relied on a variety of data and information to make a risk determination on *Purpureocillium lilacinum* strain PL11. For more information on the human health risk assessment of *Purpureocillium lilacinum* strain PL11, please see the supporting documentation provided in the associated regulatory docket (search for ''EPA–HQ–OPP–2016–0079'' at *www.regulations.gov*).

## IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as

described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

### V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 10, 2021.

**Edward Messina,**

*Acting Director, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

## PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1382 to subpart D to read as follows:

**§ 180.1382 *Purpureocillium lilacinum* strain PL11; exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of *Purpureocillium lilacinum* strain PL11 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2021–12610 Filed 6–15–21; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2020–0067; FRL–10024–51]**

## Tolfenpyrad; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of tolfenpyrad in or on artichoke, globe. The Interregional Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective June 16, 2021. Objections and requests for hearings must be received on or before August 16, 2021, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0067, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Acting Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0067 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before August 16, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0067, 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 CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of May 8, 2020 (85 FR 27346) (FRL–10008–38), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9E8807) by the Interregional Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.675 be amended by establishing a tolerance for residues of the insecticide tolfenpyrad, (4-choro-3-ethyl-1-methyl-N-[[4-(4-methylphenoxy)phenyl]methyl]-1H-pyrazole-5-carboxamide), in or on artichoke, globe at 5 parts per million (ppm). That document referenced a summary of the petition prepared by IR–4, the petitioner, which is available in the docket for this action, Docket ID EPA–HQ–OPP–2020–0067, at *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

## III. Aggregate Risk Assessment and Determination of Safety

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicology database is considered complete. A variety of toxic effects were noted in the toxicology database for tolfenpyrad. However, the most consistent findings across species and studies were effects on bodyweight and bodyweight gain. Decreases in bodyweight and/or bodyweight gain were observed in adults of all species (rat, mice, rabbit, and dog) in the majority of the subchronic oral and dermal toxicity studies, and all chronic toxicity studies. Bodyweight decreases in rats were observed at much lower doses than in other species. Chronic exposure resulted in bodyweight and bodyweight gain decreases in mice and dogs at lower doses than the effects that were observed from acute and subchronic exposures. In addition, quantitative susceptibility was observed in the database; in the rat developmental study, decreased fetal weights and number of ossified metacarpals were observed in the absence of adverse maternal toxicity and in the one-generation reproduction study, decreased pup weights were observed at a lower dose than the dose at which parental bodyweight decreases reached biological significance. Tolfenpyrad is classified as ''not likely to be carcinogenic to humans''.

A complete discussion of the toxicological profile for tolfenpyrad as well as specific information on the studies received and the nature of the adverse effects caused by tolfenpyrad as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the document titled ''Tolfenpyrad—Human Health Risk Assessment of the New Use on Globe Artichoke'' (hereinafter ''Tolfenpyrad Human Health Risk Assessment'') in docket ID number EPA–HQ–OPP–2020–0067 at *https://regulations.gov.*

### *B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (PODs) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for tolfenpyrad used for human risk assessment can be found in the Tolfenpyrad Human Health Risk Assessment.

### *C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to tolfenpyrad, EPA considered exposure under the petitioned-for tolerances as well as all existing tolfenpyrad tolerances in 40 CFR 180.675. EPA assessed dietary exposures from tolfenpyrad in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for tolfenpyrad. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, the acute assessment assumed tolerance-level residues and 100% crop treated (PCT) for all commodities. Refinements include a factor to account for the reduction in residues when wrapper leaves are removed from head lettuce, radicchio, cabbage, Chinese Napa cabbage, and Brussels sprouts. Empirical processing factors were available for processed commodities of apple, orange, cottonseed, grape, plum, potato and tomato, and were translated to other crop processed commodities where appropriate. Where empirical processing factors were not available or were not translated, the Agency's 2018 default processing factors were used. Several factors were used to account for metabolite residues in/on bulb onion subgroup 3–07A commodities and livestock commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the USDA's 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA used average residues from field trials. The chronic assessment includes estimates of PCT for some crops and all the refinements

described above for the acute assessment.

iii. *Cancer.* Based on the data cited in Unit III.A., EPA has concluded that tolfenpyrad does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information to establish the tolerance, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the residue levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- *Condition a:* The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- *Condition b:* The exposure estimate does not underestimate exposure for any significant subpopulation group.
- *Condition c:* Data are available on pesticide use and food consumption in a particular area, and the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The acute assessment assumes 100 PCT. The Agency incorporated estimates of average PCT in the chronic assessment for the following crops: Grapefruit (15%), grapes (2.5%), lettuce (10%), onion (2.5%), oranges (5%), peppers (less than 2.5%), potatoes (2.5%), tangerines (2.5%), and tomatoes (2.5%).

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and California Department of Pesticide Regulation (CalDPR) Pesticide Use Reporting (PUR) for the chemical/crop combination for the most recent 10 years. EPA uses an average PCT for chronic dietary risk analysis and a maximum PCT for acute dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 1% or less than 2.5%. In those cases, the Agency would use less than 1% or less than 2.5% as the average PCT value, respectively. The maximum PCT figure is the highest observed maximum value reported within the most recent 10 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%, except where the maximum PCT is less than 2.5%, in which case, the Agency uses less than 2.5% as the maximum PCT.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which tolfenpyrad may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for tolfenpyrad in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of tolfenpyrad. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Residues of tolfenpyrad in surface and ground water were modeled with the Pesticide in Water Calculator (PWC Version 1.52). Groundwater estimated drinking water concentrations were modeled with the Pesticide Root Zone Model Groundwater (PRZM GW) model within the Pesticide in Water Calculator (Version 1.52). For tolfenpyrad, the assessment uses the total residues approach, which is commonly used to assess chemicals that have residues of concern with similar toxicity to parent compound. The recommended estimated drinking water concentrations (EDWCs) for tolfenpyrad acute exposures are estimated to be 32.6 parts per billion (ppb) for surface water and 168 ppb for ground water. For chronic exposures for non-cancer assessments, EDWCs are estimated to be 14.1 ppb for surface water and 125 ppb for ground water. For the acute dietary exposure assessment, EPA used an EDWC of 168 ppm. For the chronic dietary exposure assessment, EPA used a value of 125 ppb.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Tolfenpyrad is not registered for any specific use patterns that would result in residential exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to tolfenpyrad and any other substances, and tolfenpyrad does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not

assumed that tolfenpyrad has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/pesticide-cumulative-risk-assessment-framework.*

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence of increased quantitative or qualitative susceptibility in the guideline rabbit developmental studies, the rat two-generation reproduction study, or the developmental immunotoxicity (DIT) study. Quantitative susceptibility was observed in the developmental rat study and the range-finding one-generation reproduction study. In the developmental rat study, decreased fetal weights and number of ossified metacarpals were observed in the absence of adverse maternal toxicity (only a 9% decrease in bodyweight). In the one-generation reproduction study, decreased pup weights were observed at a dose lower than the dose at which parental bodyweight decreases reached biological significance. All of the reviewed studies (developmental toxicity studies in the rat and rabbit and the one- and two-generation reproductive toxicity studies in the rat) include decreased bodyweight in the maternal LOAEL statement, as well as mortality in both of the developmental rabbit studies and the two-generation rat reproduction study. Reproductive toxicity was seen in rats as increased total litter loss in the two-generation study and decreased pup viability in the one- and two-generation study. Decreased pup weight was observed in all six studies, and additional offspring effects include: An increase in skeletal variation in both developmental toxicity studies; blackish abdominal cavity, dark green intestinal contents, and decreased survival of offspring in the developmental immunotoxicity study; decreased pup viability in both reproduction studies, with the addition of a delay in developmental landmarks in the two-generation reproductive toxicity study. Since most of these effects occurred in the presence of comparable or more severe maternal toxicity, or were partially attributable to the maternal animal behavior, they were not considered evidence of qualitative susceptibility.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for tolfenpyrad is complete and includes acceptable developmental and reproductive toxicity studies.

ii. Based on the available toxicity database, there is no indication that tolfenpyrad is a neurotoxic chemical, and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. While there was evidence of quantitative susceptibility in two studies, the Agency's degree of concern for the susceptibility is low because the offspring effects consistently occurred at or near doses which caused maternal toxicity (bodyweight decrease), and because endpoints and doses selected for risk assessment are protective of the observed susceptibility.

iv. There are no residual uncertainties identified in the exposure databases. The dietary exposure assessment is partially refined but does not underestimate potential dietary exposure to tolfenpyrad. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to tolfenpyrad in drinking water. These assessments will not underestimate the exposure and risks posed by tolfenpyrad.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to tolfenpyrad will occupy 69% of the aPAD for children 1 to 2 years of age, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to tolfenpyrad from food and water will utilize 59% of the cPAD for all infants less than 1-year old, the population group receiving the greatest exposure. There are no residential uses for tolfenpyrad.

3. *Short-term and Intermediate-term risks.* Short-term and intermediate-term aggregate exposures take into account short-term and intermediate-term residential exposures plus chronic exposures to food and water (considered to be a background exposure level).

Short-term and intermediate-term adverse effects were identified; however, tolfenpyrad is not registered for any use patterns that would result in short-term or intermediate-term residential exposures. Short-term and intermediate-term risks are assessed based on short-term and intermediate-term residential exposures plus chronic dietary exposure. Because there are no short-term or intermediate-term residential exposures and chronic dietary exposures have already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short-term and intermediate-term risk), no further assessments of short-term and intermediate-term risks are necessary, and EPA relies on the chronic dietary risk assessment for evaluating short-term and intermediate-term risks for tolfenpyrad.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, tolfenpyrad is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to tolfenpyrad residues.

## IV. Other Considerations

*A. Analytical Enforcement Methodology*

An acceptable high-performance liquid chromatography method with

tandem mass spectrometry detection (LC/MS/MS) is available for enforcement of tolfenpyrad residue tolerances in/on plant commodities (Morse Laboratories Analytical Method #Meth-183, Revision #2). For livestock, a method described in PTRL West Study No. 1841W is available. Residues are determined by LC/MS/MS analysis.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd. Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

*B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The Codex has not established an MRL for tolfenpyrad in globe artichoke.

## V. Conclusion

Therefore, a tolerance is established for residues of tolfenpyrad, (4-choro-3-ethyl-1-methyl-N-[[4-(4-methylphenoxy)phenyl]methyl]-1H-pyrazole-5-carboxamide), in or on artichoke, globe at 5 ppm.

## VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to petitions submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 10, 2021.

**Marietta Echeverria,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

## PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.675, amend paragraph (a)(1) by designating the table and adding in alphabetical order in newly designated Table 1 to paragraph (a)(1) the entry ''Artichoke, globe'' to read as follows:

**§ 180.675 Tolfenpyrad; tolerances for residues.**

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| Artichoke, globe | 5 |
| * * * * * | |

* * * * *

[FR Doc. 2021–12609 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MB Docket No. 21–71; RM–11887; DA 21–601; FR ID 29216]**

### Television Broadcasting Services Hannibal, Missouri

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On March 7, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking* in response to a petition for rulemaking filed by KHQA Licensee, LLC (Licensee), the licensee of KMYU, channel 7 (CBS), Hannibal, Missouri, requesting the substitution of channel 22 for channel 7 at Hannibal in the DTV Table of Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC

regulations to substitute channel 22 for channel 7 at Hannibal.

**DATES:** Effective June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, at (202) 418–1647 or *JoyceBernstein@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** The proposed rule was published at 86 FR 16686 on March 31, 2021. The Licensee filed comments in support of the petition reaffirming its commitment to apply for channel 22. No other comments were filed. The Licensee states that VHF channels have certain propagation characteristics which may cause reception issues for some viewers and that the reception of VHF signals requires larger antennas generally not well suited to the mobile applications expected under flexible use, relative to UHF channels. In addition, KHQA–TV has received numerous complaints from viewers unable to receive the Station's over-the-air signal, despite being able to receive signals from other stations. Moreover, there would be no loss of service because the noise limited contour of the proposed channel 22 facility completely encompasses the licensed channel 7 facility's noise limited contour.

This is a synopsis of the Commission's *Report and Order,* MB Docket No. 21–71; RM–11887; DA 21–601, adopted May 21, 2021, and released May 21, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

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

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Television.

Federal Communications Commission.

**India Malcolm,**

*Assistant Bureau Chief for Management.*

**Final Rule**

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

## PART 73—RADIO BROADCAST SERVICE

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

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

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

**§ 73.622 Digital television table of allotments.**

* * * * *

(i) * * *

| Community | Channel No. |
|---|---|
| * * * * * | |
| **MISSOURI** | |
| * * * * * | |
| Hannibal | 22 |
| * * * * * | |

[FR Doc. 2021–12049 Filed 6–15–21; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–R6–ES–2018–0045; FXES11130900000–201–FF09E22000]**

**RIN 1018–BC03**

## Endangered and Threatened Wildlife and Plants; Removing the Water Howellia From the List of Endangered and Threatened Plants

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are removing water howellia (*Howellia aquatilis*) from the Federal List of Endangered and Threatened Plants. The best available scientific and commercial data indicate that threats to water howellia identified at the time of listing in 1994 are not as significant as originally determined and are being adequately managed. Therefore, the species no longer meets the definition of an endangered or a threatened species under the Endangered Species Act of 1973 (Act), as amended. This determination is based on a thorough review of all available information, which indicates that this species' populations and distribution are much greater than were known at the time of listing and that threats to this species have been sufficiently minimized.

**DATES:** This rule is effective July 16, 2021.

**ADDRESSES:** This final rule, the supporting documents we used in preparing this rule, and public comments we received are available on the internet at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2018–0045. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

**FOR FURTHER INFORMATION CONTACT:** Jodi Bush, Office Supervisor, telephone: 406–449–5225. Direct all questions or requests for additional information to: WATER HOWELLIA QUESTIONS, U.S. Fish and Wildlife Service, Montana Ecological Services Field Office, 585 Shepard Way, Suite 1, Helena, MT 59601. Persons who use a TDD may call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a rule.* Under the Act, if a species is determined to no longer be an endangered or threatened species, we may reclassify the species or remove it from the Federal Lists of Endangered and Threatened Wildlife and Plants due to recovery. A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act does not define the term ''foreseeable future.'' However, we consider ''foreseeable future'' as that period of time within which a reasonable prediction can be relied upon in making a determination about the future conservation status of a species. Water howellia is listed as threatened. We are removing this species from the Federal List of Endangered and Threatened Plants (*i.e.,* ''delist'' this species) because we have determined that it is not likely to become an endangered species now or

within the foreseeable future. Delisting a species can only be completed by issuing a rule.

*The basis for our action.* Under the Act, we can determine that a species is an endangered or threatened species based on any one or more of the following five factors or the cumulative effects thereof: (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. Based on an assessment of the best available information regarding the status of and threats to water howellia, we have determined that the species no longer meets the definition of an endangered or threatened species under the Act.

This final rule recognizes that based on the best available science, water howellia has reached recovery. Collaborative conservation efforts including increased surveys, land transfers, and land management plans have all aided in the discovery of additional occurrences of the species and provided for long-term protection of the species.

**Previous Federal Actions**

On October 7, 2019, we proposed to remove water howellia from the Federal List of Endangered and Threatened Plants (*i.e.,* to ''delist'' the species) (84 FR 53380). For previous Federal actions occurring before October 7, 2019, please see the Previous Federal Actions section of the proposed rule.

**Species Description and Habitat Information**

In this final rule, we discuss only those topics directly related to delisting water howellia. For more information on the description, biology, ecology, and habitat of water howellia, please refer to the final listing rule published in the **Federal Register** on July 14, 1994 (59 FR 35860); the most recent 5-year review for water howellia completed in August of 2013 (USFWS 2013, entire); the draft recovery plan for water howellia, completed in September 1996 (USFWS 1996, entire); and the proposed delisting rule published in the **Federal Register** on October 7, 2019 (84 FR 53380). These documents are available as supporting materials on *http://www.regulations.gov* under Docket No. FWS–R6–ES–2018–0045. We use concepts of resiliency, redundancy, and representation (Smith *et al.* 2018) in considering the species' viability. Resiliency is the ability of the species to maintain healthy populations that can withstand annual environmental variation and stochastic events. Redundancy is the ability of the species to maintain an adequate number and distribution of populations that can withstand catastrophic events. Representation is the ability of the species to adapt to changing environmental conditions through genetic, ecological, demographic, and behavioral diversity across its range.

Water howellia was first collected in 1879, along the Columbia River in Multnomah County, Oregon (Gray 1880, entire), and is native to the northwestern United States. The taxonomy of water howellia as a full species in a monotypic genus is widely accepted as valid by the scientific community (The Plant List 2013, unpaginated; ITIS 2017).

Water howellia is an annual, aquatic herb in the bellflower family (Campanulaceae). The entire plant is smooth, possessing no hairs or projections. The stems are fragile, submerged and floating, reaching up to 39 inches (in) (100 centimeters (cm)) in length. Stems branch several inches from the base, and each branch extends to the water surface. The numerous leaves are narrow and range from 1–2 in (25–50 millimeters (mm)) long.

Water howellia produce two types of flowers: Cleistogamous (closed) and chasmogamous (showy, open for pollination). Small cleistogamous flowers are produced along the stem below the water surface and are self-fertilizing. Chasmogamous flowers are produced on the water surface and commonly self-pollinate (Lesica *et al.* 1988, p. 276; Shelly and Moseley 1988, pp. 5–6).

Suitable water howellia habitat typically includes small, vernal freshwater wetlands and ponds with an annual cycle of filling with water in spring and drying up in summer or autumn (USFWS 1996, p. 14). These habitats can be glacial potholes or depressions (Shapley and Lesica 1997, p. 8; U.S. Department of Defense (USDOD) 2017a, p. 1) or river oxbows (Lesica 1997, p. 366) in Montana and western Washington, riverine meander scars (Idaho NHP 2017, p. 1; Wiechmann 2014a, p. 3) in Idaho, glacial-flood remnant wetlands (Robison 2007, p. 8) in eastern Washington, or landslide depressions (Johnson 2013, pers. comm.) in California, but are all ephemeral (transitory) to some degree. Depending on annual patterns of temperature and precipitation, the drying of the ponds may be complete or partial by autumn; these sites are usually shallow and less than 3 feet (ft) (1 meter (m)) in depth. Some ponds supporting water howellia are dependent on complex ground and surface water interactions. Snow melt runoff is important in maintaining suitable conditions in the spring, while localized groundwater flow mitigates water loss from evaporation and plant transpiration later in the summer (Reeves and Woessner 2004, pp. 7–9).

The drying of water howellia habitat in late summer and autumn is important because water howellia seeds only germinate when exposed to air (Lesica 1990). Upon air exposure, seeds either germinate in the fall and produce seedlings that overwinter under snowcover, or germinate the following spring, with seeds lying on top of the soil through winter. Water howellia seedlings that overwinter in soil resume growth in spring in northern climates (Mincemoyer 2005, p. 3) or begin growing after fall germination in southern climates (*e.g.,* California) (Johnson 2013, pers. comm.). Spring growth in California and low-elevation occurrences in western Washington typically commence in early April, and in eastern Washington, Idaho, and Montana by early May. Rangewide, emergent (chasmogamous) flowers bloom soon after the stems reach the water surface and are typically present from May through July. Seed dispersal starts in June from submerged (cleistogamous) flowers and extends until late summer from emergent flowers (Shelly and Moseley 1988, p. 5).

Decreased germination rates have been documented for seeds residing in the soil longer than 8 months (Lesica 1992, pp. 415–416). However, monitoring data and observations from Montana (U.S. Forest Service (USFS) 2002, pp. 6–7; USFWS 1996, pp. 17–18) and Washington (Gilbert 2008, pers. comm.) show the presence of water howellia after 2 consecutive years with no plant observations, suggesting seeds may remain viable for at least 3 years. This life-history strategy likely provides a buffer against unfavorable growing conditions in consecutive years.

Composition and depth of substrates in vernal wetlands are also important characteristics of suitable water howellia habitat. Substrates composed of both coarse organic and mineral sediments are correlated with presence of water howellia (Lesica 1992, p. 417). Similarly, water howellia growth in a laboratory setting was highest in coarse organic substrate (Lesica 1992, p. 416). However, mean depth of the organic sediment layer was significantly less in ponds with water howellia, relative to depth in ponds without water howellia (Lesica 1992, p. 417). These results

indicate a moderate amount of organic sediment (with some mineral soil) in wetland substrates may be optimum for water howellia presence and growth.

Water howellia occupies habitats across its range that vary in the extent of canopy cover, suggesting some flexibility to potential effects of disturbance on canopy cover. Many water howellia occurrences are surrounded or nearly surrounded by forested vegetation (Mincemoyer 2005, p. 7), with numerous observations reporting water howellia occupying shaded portions of ponds and wetlands (Isle 1997, p. 32; McCarten *et al.* 1998, p. 4). Conversely, on the Joint Base Lewis-McChord (JBLM) military base in Washington, occupied ponds were historically surrounded by prairie vegetation and, as a result of years of fire suppression, are now surrounded by forest (Gilbert 2017, pers. comm.). Currently, water howellia is occurring in portions of ponds that receive the most light and least shade (Gilbert 2017, pers. comm.). In Montana's Swan Valley, water howellia was present in 78 percent of sites with prior disturbance (roads, fire, grazing, and/or vegetation treatments) of vegetation surrounding the ponds (Pipp 2017, p. 6), indicating some plasticity to the effects of disturbance on extent of canopy cover.

*Range, Distribution, Abundance, and Trends of Water Howellia*

The distribution of water howellia before European settlement and modern development in the Pacific Northwest is unknown. However, after European settlement, water howellia is known from the Pacific Northwest, with historical occurrences documented in California, Oregon, Washington, Idaho, and Montana (Shelly and Moseley 1988, pp. 6, 9). The species still occurs in all five States. Since listing in 1994, new occurrences of water howellia have been documented in all five States, generally in areas within these States known historically to support the species.

At the time of Federal listing (1994), 107 water howellia occurrences were known across the species' range (59 FR 35860; July 14, 1994). In 2020, a minimum of 307 occurrences were documented (see Table 1, below). The majority of extant occurrences (91 percent) are within three metapopulations occupying distinct geographic areas in Montana's Swan Valley (Lake and Missoula Counties); Department of Defense property at JBLM, Pierce County in western Washington; and Turnbull National Wildlife Refuge (Turnbull Refuge), Spokane County in northeastern Washington (see the figure, below). The three metapopulations have enabled the species to remain viable across its range (Freckleton and Watkinson 2002, p. 419). Small, isolated occurrences that are not part of a metapopulation can be more vulnerable to extirpation (Lesica 1992, p. 420). Consequently, identification of these metapopulations is important for directing conservation efforts toward the regional availability of suitable habitat (Freckleton and Watkinson 2002, p. 432). Currently, 258 of the 307 (84 percent) reported water howellia occurrences are on lands administered by the Federal Government. There are 37 reported occurrences of water howellia on private property; however, little is known about them, as limited monitoring of these occurrences has taken place over the years. Two occurrences of water howellia are on State land and the remaining occurrences exist in areas with several jurisdictions (*i.e.,* straddle public and private lands).

TABLE 1—CURRENT NUMBER OF WATER HOWELLIA OCCURRENCES AND PERCENT OF TOTAL KNOWN OCCURRENCES BY STATE

| State | Number of occurrences | Percent of total known occurrences |
|---|---|---|
| Montana | 220 | 72 |
| Idaho | 7 | 2 |
| Washington | 72 | 23 |
| Oregon | 2 | <1 |
| California | 7 | 2 |
| Total | 308 | |

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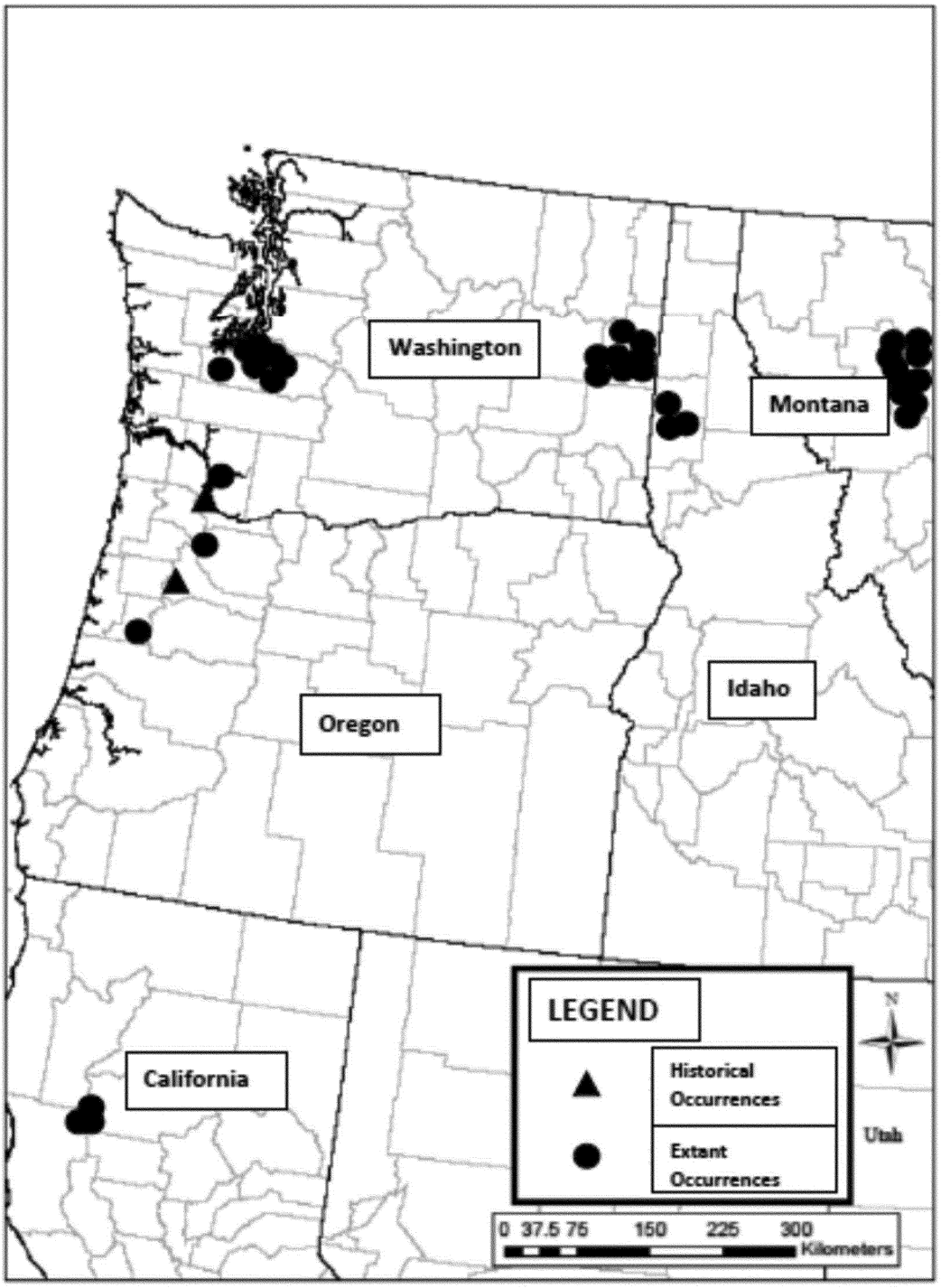


**Figure of historical and extant occurrences of water howellia across the species' known range.**

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Population trends for water howellia are difficult to determine. Substantial numbers of new occurrences have been discovered since listing in 1994, and, most recently, occurrences have been documented in Oregon, where the species was thought to be extirpated. However, this may not necessarily indicate a positive population trend. Rather, this could indicate increased efficiency at finding new occurrences. Consistent, standardized monitoring has not occurred across the range of the species, making it difficult to document trends, even when repeat monitoring has occurred at occupied sites (Fertig 2019, pp. 40–45). Additionally, an occurrence is broadly defined, and abundance of individual water howellia plants within occurrences fluctuates widely. This is due, in part, to environmental conditions of the preceding autumn, which affect seed

germination rates. Nevertheless, based on the discovery of many new occurrences and few recent extirpations of existing occurrences, distribution of the species appears to be currently stable.

Genetic variation among water howellia occurrences is low. Occurrences in California and Montana are genetically similar; however, occurrences in Idaho and Washington are more distantly related (Schierenbeck and Phipps 2010, p. 5). These data suggest that gene flow is occurring between occurrences separated by large geographic distances, albeit at a relatively low rate. A correlation between migratory waterfowl routes with either genetic similarity or distance indicates that waterfowl may be transporting seed or plant material between water howellia population areas (Schierenbeck and Phipps 2010, pp. 6–7). A more robust sampling and genetic analysis of water howellia occurrences across the species' range would be necessary to support or refute this hypothesis.

*Conservation Efforts*

A recovery plan for water howellia was drafted in 1996, but never finalized (USFWS 1996, entire). Despite having not been finalized, the draft recovery plan constitutes the best available information on what objective, measurable criteria should be met in order to delist the species. Here, we provide a summary of progress made on the draft recovery criteria for water howellia. More detailed information related to conservation efforts can be found below under Summary of Factors Affecting the Species.

1. *Recovery criterion:* Management practices, in accordance with habitat management plans, have reduced and/or controlled anthropogenic threats, thereby maintaining the species and its habitat integrity throughout the currently known range on public lands in five geographic areas for 10 years after the effective date of the final recovery plan (when finalized). Monitoring will demonstrate the effectiveness of management plans. Management plans will be in place for, at a minimum, the occurrences listed in the following table:

TABLE 2—FORMALIZED MANAGEMENT PLANS PER GEOGRAPHIC AREA

| Geographic area | Minimum number of occurrences identified in draft recovery plan | Current number of occurrences covered by management plans (percent of total occurrences) | Years management plans in place |
|---|---|---|---|
| Montana | 67 | 191 (62) | 22 |
| Spokane County, Washington | 33 | 37 (12) | 12 |
| Pierce County, Washington | 5 | 19 (6) | 16 |
| Clark County, Washington | 4 | 4 (1) | 9 |
| Mendocino County, California | 5 | 7 (2) | 24 |
| Totals | 114 | 258 (84) | |

*Progress:* Despite the recovery plan not being finalized, management plans are in place on Federal lands for the minimum number of occurrences identified in Table 2, above.

Monitoring indicates management plans have been effective at maintaining the minimum number of occurrences by reducing or eliminating anthropogenic threats associated with land management activities (*e.g.,* timber harvest, road construction, and maintenance) and other threats (*e.g.,* invasive species). Prior to formalized management plans, some conservation efforts were occurring on Federal, State, and some private land. In addition, survey efforts have documented substantially more occurrences of water howellia rangewide than were known at the time of listing (Mincemoyer 2005, pp. 4–5; Frymire 2017, pers. comm.; Gilbert 2017, pers. comm.; Johnson 2017, pers. comm.; Lichthardt and Pekas 2017, p. 1; ORBIC 2017, unpaginated; Rule 2017, pers. comm.).

2. *Recovery criterion:* Foster or promote the conservation of occurrences on lands not addressed by agency management plans. Specifically, this recovery criterion recommends long-term conservation measures for the occurrence in Latah County, Idaho.

*Progress:* Long-term conservation measures for water howellia have been established through land transfers, conservation easements, and management plans on some private lands. In Montana's Swan Valley, large-scale land transfers (67,000 acres (ac) (27,000 hectares (ha)) for the benefit of many species have occurred, and land supporting known water howellia occurrences has been transferred from private to Federal ownership. These occurrences are now protected under Federal agency management plans and conservation strategies. One occurrence located on private land in Latah County, Idaho, is protected under a conservation agreement, held in perpetuity by the Palouse Land Trust. In the 5-year review (USFWS 2013, p. 6), it was noted that, in addition to the conservation agreement, a management plan for this occurrence was being developed (Trujillo 2017, pers. comm.). However, recent communications with Palouse Land Trust indicate that a management plan still needs to be developed for this occurrence (Englund 2020, pers. comm.). Two other occurrences of water howellia on the Coeur d'Alene Reservation in Idaho are being actively managed under the direction of a tribal water howellia management plan (Green 2018, pp. 3–9). The Coeur d'Alene tribe is planning to use active stream/wetland and floodplain restoration, riparian buffering, and outplanting to conserve existing water howellia occurrences and expand the distribution of the species into nearby potentially suitable habitat (Green 2018, entire). The Service is unaware of any information regarding additional efforts to protect water howellia occurrences on private land in other parts of the species' range.

3. *Recovery criterion:* A post-delisting strategy for monitoring the species' population dynamics is in place.

*Progress:* We have developed a post-delisting monitoring plan in cooperation with State, Federal, Tribal, and nongovernmental conservation partners. The final post-delisting monitoring plan is available for public review on *http://www.regulations.gov* under Docket No. FWS–R6–ES–2018–0045.

Additionally, the 5-year review recommended development of a memorandum of understanding (MOU) with the USFS and U.S. Department of Defense (USDOD) to ensure the continuation of existing conservation measures currently benefitting water howellia. Although a formal MOU has not been developed, both agencies have specific conservation strategies in place for the conservation of water howellia (for specific conservation strategies, see discussion of land management effects under A. *The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range,* below).

**Summary of Changes From the Proposed Rule**

Based on public comments on our October 7, 2019, proposed rule (84 FR 53380) and information provided to us by peer reviewers, we made updates or provided additional clarity on information concerning population monitoring vs. surveying, predicted effects of invasive species, regulatory mechanisms, climate change, wetland/pond hydrology, genetic diversity, cumulative effects, post-delisting monitoring, and metapopulation structure. We also made other minor editorial clarifications and corrections in this final rule.

**Summary of Factors Affecting the Species**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether any species is an ''endangered species'' or a ''threatened species'' because of any of the following 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.

We must consider these same five factors in delisting a species. For species that are already listed as endangered or threatened species, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the removal of the Act's protections. According to 50 CFR 424.11(e), we may delist a species if our status review of the best available scientific and commercial data indicates that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species (*e.g.,* due to recovery); or (3) the listed entity does not meet the statutory definition of a species.

Water howellia is currently listed as threatened. Section 3(20) of the Act defines a ''threatened species'' as any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act does not define the term ''foreseeable future.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''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.

For water howellia, we consider 30 years to be a reasonable period of time within which reliable predictions can be made for the species. This time period includes multiple generations of water howellia. Additionally, various global climate models and emission scenarios provide consistent predictions within that timeframe (IPCC 2014, p. 11). We consider 30 years a relatively conservative timeframe in view of the long-term protections in place for 84 percent of the species' occupied habitat occurring on Federal land.

A recovered species has had threats removed or reduced to the point that it no longer meets the Act's definition of an ''endangered species'' or a ''threatened species.'' A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. For the purposes of this analysis, we will evaluate whether or not the currently listed species, water howellia, should continue to be listed as threatened, based on the best scientific and commercial information available.

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'' or that it should remain listed as such. In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response 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 following analysis examines the factors currently affecting water howellia or that are likely to affect it within the foreseeable future.

*Habitat-Based Threats*

At the time of listing (59 FR 35860; July 14, 1994), the following potential habitat-based threats were identified for this species: (1) Invasive species, (2) land management (primarily timber harvest and road building), (3) trampling by domestic livestock, (4) direct habitat loss from urbanization or dam construction, and (5) the narrow ecological requirements of the species. In the analysis that follows, we also considered climate change in the context of the species' narrow ecological requirements.

*Invasive Species*

In the final listing rule (59 FR 35860; July 14, 1994), invasive plant species were identified as a threat to water howellia in habitats where they overlap. Invasive species, such as reed canarygrass (*Phalaris arundinacea*), sweet flag (*Acorus calamus*), and yellow flag iris (*Iris pseudacorus*), were identified to have the capacity to outcompete water howellia, presumably for nutrients and space (Lesica 1997, p. 367; Clegg et al. 2000, p. 13; Lichthardt and Pekas 2017, entire). These invasive species may have the potential to extirpate water howellia occurrences (59 FR 35860; July 14, 1994), and as a result, we focus our analysis on these species. The best available information does not indicate any potentially significant negative impacts to water howellia from any other invasive species.

Reed canarygrass is present in water howellia habitat in all States, except California (Johnson 2017, pers. comm.), but the extent of invasion varies by site (Gilbert 2017, pers. comm.; Rule 2017, pers. comm.; Shelly 2017, pers. comm.; Lesica 1997, pp. 367–368). Abundance of reed canarygrass in ponds occupied by water howellia on the Turnbull National Wildlife Refuge (NWR) has fluctuated through time, with no definitive long-term trend (Rule 2017, pers. comm.; Rule 2020, in progress). Abundance of reed canarygrass in ponds occupied by water howellia on the JBLM has also fluctuated through time, with no definitive long-term trend (Gilbert 2017, pers. comm.; Gilbert 2020, pers. comm.). In Montana, reed canarygrass is present in many ponds occupied by water howellia, but increased distribution has not been detected recently (Shelly et al. 2016, entire; Shelly 2017, pers. comm.). However, reed canarygrass invaded Swan River Oxbow Preserve in the Swan Valley in Montana, and water howellia was subsequently extirpated at that site (Lesica 1997, pp. 367–368; Lesica 2001, p. 2). In Idaho, monitoring efforts have not detected any decreases in pond size, which may act as a surrogate for reed canarygrass colonization; however, detailed monitoring of the species has not been conducted (Lichthardt and Pekas 2017, p. 6). Little is known about the extent of reed canarygrass invasion with regard to water howellia occurrences in Oregon.

The mechanisms driving the invasive potential of reed canarygrass within water howellia habitats are unclear. The invasive potential may be due to some sites being occupied by a native genotype of reed canarygrass and other sites being occupied by a highly invasive variety (Casler et al. 2009, entire; Lichthardt and Pekas 2017, p. 8; Wiechmann 2014a, p. 31; Jakubowski et al. 2013, entire; Merigliano and Lesica 1998, entire). Density of reed canarygrass is a better determinant of impact to water howellia occurrences than presence alone (Wiechmann 2014a, pp. 31, 34, 38). Additionally, in some ponds, reed canarygrass was found to be dominant at shallower water depths and water howellia dominant at deeper depths (Wiechmann 2014a, p. 32).

Success of mechanical and chemical treatment efforts to decrease the abundance and distribution of reed canarygrass have varied across the range of water howellia. In California, mechanical treatment has limited the spread of reed canarygrass in ponds and wetlands adjacent to water howellia occurrences, and chemical treatment is further reducing the size of reed canarygrass patches (Johnson 2011, 2017, pers. comm.). Similarly, consistent suppression of reed canarygrass at JBLM (military base) in Washington has reduced patch sizes of the plant in the past (TNC 2006, p. 65; Engler 2008, pers. comm.; Gilbert 2008, pers. comm.). Currently, no suppression efforts are underway at JBLM, due to little change in reed canarygrass distribution and the risk of harming water howellia plants in the process (Gilbert 2017, pers. comm.). In Idaho, the success of suppression efforts to limit abundance and distribution of reed canarygrass were mixed (Lichthardt and Gray 2010, p. 9). However, once suppression efforts were stopped, distribution and abundance of reed canarygrass appeared to vary more with fluctuating environmental conditions than with the presence of suppression effort (Lichthardt and Gray 2010, p. 9). No suppression efforts to control or eradicate reed canarygrass on the Turnbull NWR in Washington are currently underway; the species is present, but trends indicate variability in abundance with fluctuating environmental conditions (Rule 2009, 2013a, 2017, pers. comm.). In Montana, suppression efforts of reed canarygrass have been somewhat successful in some areas (Annen 2010, entire; Healy 2015 and references therein, entire) and not successful in other areas (Lesica and Martin 2004, entire; Lesica 2001, entire).

Sweet flag was identified by the State of Idaho as an invasive species that may be displacing water howellia at one location (Idaho Department of Fish and Game (IDFG) 2016, p. 3). Monitoring at this location has been ongoing since 1999, and water howellia has not been observed since 2001 (Lichthardt and Pekas 2017, p. 2). However, we are unaware of any other water howellia occurrences being affected by sweet flag. As a result, sweet flag is unlikely to become a threat to water howellia.

Yellow flag iris is an invasive plant that has been identified in ponds occupied by water howellia on JBLM in Washington. While it appears yellow flag iris may have the ability to displace or outcompete water howellia in some environments, the infestations on JBLM occur in relatively small areas, and their spread has been controlled by herbicides or mechanical removal (Clegg et al. 2000, p. 13; Gilbert 2019, pers. comm.).

Invasive plants can be aggressive and quickly displace native plants in some situations. While there are some small sites that may have been completely or partially overtaken by invasive plants, water howellia metapopulations appear to maintain viability in the face of invasive species. This conclusion is reinforced by reed canarygrass coexisting with extant water howellia occurrences; large-scale displacement of water howellia by reed canarygrass is not occurring in any of the metapopulations (Swan Valley, Montana; Turnbull NWR and JBLM, Washington), even in the absence of suppression efforts. Given the absence of displacement of water howellia by reed canarygrass within the three metapopulations of water howellia, and the success of existing suppression efforts where they have been applied, we do not consider reed canarygrass to be a significant threat to water howellia. The best available information does not indicate that any other invasive species likely pose a threat to water howellia.

Land Management Activities

Land management activities that cause disturbance to vegetation surrounding water howellia occurrences were identified as a threat to the species in the final listing rule (59 FR 35860; July 14, 1994). Previous modeling efforts suggested that these activities, singularly or in combination, could result in a loss of vegetation at the pond fringe, disrupting the hydrological cycle and negatively impacting the phenology of water howellia (Reeves and Woessner 2004, pp. 10, 15). However, more recent evidence indicates that effects from land management activities are no longer a threat to the species.

Most land management activities that could disturb vegetation surrounding water howellia occurrences on USFS land are now prohibited or designed to minimize impacts to water howellia. For example, land management activities on the Flathead National Forest in Montana must create a favorable physical environment that protects against hydrological changes that may adversely impact water howellia (USDA 2018, pp. 45–46). These desired conditions and guidelines were incorporated as part of the revised Flathead National Forest Plan in 2018. On the Mendocino National Forest in California, activities that could disturb vegetation within 300 ft (91 m) of water howellia occurrences are typically not allowed because of standards and guidelines to protect the plant (USFS 1995, p. IV–32; Johnson 2013, pers. comm.). Limited activities (including prescribed fire) may be allowed within the 300-ft (91-m) buffer, but only if needed to maintain the integrity of the buffer (USDA 2018, pp. 18–23, 44–46; Johnson 2013, pers. comm.). The 2018 revised Flathead National Forest Plan in Montana has also incorporated the conservation strategy for water howellia, which was finalized in 1997 (USFS 1997, entire; for a more in-depth discussion of land management plans, see *Existing Regulatory Mechanisms,* below). As a result of these actions, abundance and distribution of water howellia have remained stable in Montana's Swan Valley from 1978 to 2014 (Pipp 2017, p. 14).

On State land in Montana, clear-cutting of timber and prescribed fire are prohibited within defined buffers surrounding waterbodies (Montana Code Annotated 2019, title 77, chapter 5, part 3, at 77–5–303). In Washington, buffer zones are established in wetlands containing water howellia on Turnbull NWR when mechanical thinning and prescribed fire are used to treat conifer encroachment (Rule 2009, pers. comm.). Timber harvest and prescribed fire were not identified as potential threats to other water howellia occurrences in Washington (USDOD 2006, entire; USDOD 2012, entire; USDOD 2017a, entire; Anderson 2013, pers. comm.; Gilbert 2013, 2017, pers. comm.), or occurrences in Oregon or Idaho (Currin 2013, pers. comm.; USFWS 2009, entire; IDFG 2016, entire).

Some disturbance of vegetation surrounding water howellia occurrences from land management activities occurred historically, prior to existing guidelines and standards in Federal land management plans. For example, in Montana's Swan Valley, historical disturbances caused from land management activities (*e.g.,* timber harvest, timber thinning, prescribed fire, road building, grazing) have occurred in vegetated buffers surrounding many of the existing water howellia occurrences (Pipp 2017, p. 6). However, 79 percent of existing water howellia occurrences in the Swan Valley have experienced at least one historical disturbance event in the surrounding vegetation and are still viable, indicating some tolerance of water howellia to buffer disturbance. In addition, abundance or distribution of water howellia in the Swan Valley has remained stable, despite these historical disturbances from land management activities (Pipp 2017, p. 14). Furthermore, despite experiencing a stand-replacing fire in 2003, water howellia occurrences in the affected area of the Swan Valley are stable; buffer vegetation appears to have recovered, and hydrology is adequately functioning (Pipp 2017, pp. 14–15).

The effects of historical road building within vegetated buffers surrounding water howellia occurrences have largely been mitigated on Federal and State lands. Guidance established in the revised Flathead National Forest Plan indicates that maintenance on roads within 300 ft (92 m) of ponds providing habitat for water howellia should maintain or improve hydrological integrity to protect habitat conditions (USDA 2018, pp. 45–46). No effects of historical roads occurring within vegetated buffers on water howellia in the Swan Valley were found in a recent analysis (Pipp 2017, p. 16). Similarly, in California, small spur roads are being closed and hydrologically stabilized in areas occupied by water howellia on the Mendocino National Forest to minimize anthropogenic contribution to landscape instability per direction in the Mendocino National Forest Plan (USFS 1995, p. III–26; Johnson 2008, pers. comm.). These conservation measures appear to be working in California, as six of the seven known occurrences of water howellia are still viable. In Idaho, the Idaho Transportation Department (ITD) avoids adverse effects to wetlands during project implementation, and a Best Management Practices Manual identifies measures to minimize any potential effects during project implementation (ITD 2014, entire; ITD 2017, p. 1). The State of Idaho identified two water howellia occurrences within 98 ft (30 m) of an established highway and expressed concern about indirect effects of road work resulting in sedimentation and, of less concern, potential removal of shade (IDFG 2016, p. 4). However, the best available information does not indicate any potential effects that road work may pose to this population. Roads were not cited as a threat to water howellia occurrences in Washington or Oregon (USDOD 2006, entire; USDOD 2012, entire; USDOD 2017a, entire; USFWS 2007, entire; USFWS 2010; entire; Anderson 2013, pers. comm.; Currin 2013, pers. comm.).

Land management activities (*e.g.,* timber harvest, timber thinning, road building, grazing, and prescribed fire) that disturb vegetation surrounding water howellia occurrences were once considered a threat to the species. However, most land management activities that have the potential to disturb surrounding vegetation are prohibited by land management plans or other Federal or State policy. Some of these prohibitions were put in place as a result of the species being listed, but will remain in effect for the duration of the land management plan or other policy, even when the species is delisted. Where disturbance of vegetation from land management activities has occurred, water howellia has shown some tolerance for disturbance and no downward trend in presence or distribution. Given that all three metapopulations currently have conservation measures in place to avoid vegetative buffer disturbance from land management activities and that water howellia has shown some tolerance to disturbance when it occurs, we no longer consider land management activities to be a significant threat to water howellia.

Trampling by Domestic Livestock

Trampling of water howellia by domestic livestock was cited as a threat in the final listing rule for the species (59 FR 35860; July 14, 1994). Direct effects of plant crushing, seed bank disturbance, and alterations to substrate are likely to occur when livestock enter and exit ponds and wetlands. In addition, increased nutrient loading may be an indirect effect of livestock

occupancy in and near water howellia habitat. Some water howellia occurrences are within habitats actively used by livestock. However, the level of livestock-caused disturbance that water howellia can withstand is not known and likely varies with site-specific conditions, as well as timing, severity, and duration of livestock use of occupied water howellia habitat.

The effects of trampling on water howellia occurrences on Federal and State land have largely been mitigated by fencing, cattle barricades, elimination of grazing in some areas occupied by water howellia, or limitations on the duration of time livestock have access to sensitive pond and wetland habitats (USFS 2002, p. 6; Mincemoyer 2005, p. 11; Johnson 2008, 2013, pers. comm.; Frymire 2017, pers. comm.). In Montana, analyses of monitoring data spanning nearly 30 years have concluded that despite some grazing in occupied habitat, the presence of water howellia has not been affected (Pipp 2017, p. 17).

Although no causal link was made between grazing levels and the probability of water howellia presence in the Pipp (2017) analysis, it appears that management actions such as fencing, cattle guards, and exclusion implemented concurrently with grazing have provided protections to water howellia habitat and allowed the species to be conserved in Montana's Swan Valley (Pipp 2017, p. 17). In California, specific grazing regimes near five occupied ponds within an active grazing allotment on National Forest land appear to be effective; monitoring indicates no effects to water howellia occurrences from livestock trampling (Johnson 2013, pers. comm.). Two other water howellia occurrences in California are within inactive grazing allotments, where livestock are not currently present and not expected to be present in the future (Johnson 2013, 2017, pers. comm.). Trampling is not reported as a threat in Washington, Idaho, or Oregon (USDOD 2006, entire; USDOD 2017a, entire; USFWS 2007, entire; USFWS 2010, entire; Currin 2013, pers. comm.; IDFG 2016, entire). It is unknown where grazing may occur on the 37 occurrences (12 percent of total known occurrences) on private property. Therefore, the extent of trampling and other livestock-related alterations to water howellia habitat on these private lands is unknown. However, potential trampling effects from livestock on Federal and State land have been largely mitigated.

Trampling of water howellia by domestic livestock is not a threat to the species on Federal or State land at current grazing levels because of mitigation measures being implemented, including riparian fencing, cattle guards, and timely removal or relocation of livestock from sensitive pond and wetland habitats. The best available information does not indicate that levels of livestock use (and thus potential trampling) will increase beyond current levels in the future. The severity and frequency of trampling of water howellia occurrences on private land are unknown, but as significantly fewer water howellia occurrences are known from private lands, any impacts are likely not significant at the species level and have not affected recovery, which has been achieved based on species viability on State and Federal lands. We conclude, based on the available information, that trampling by domestic livestock is not a significant threat to water howellia.

Habitat Loss From Urbanization and Dam Construction

Habitat loss from urbanization and dam construction occurred historically, particularly in Oregon, and was considered a threat to water howellia at the time of listing in 1994. However, additional habitat loss from urbanization and dam construction is no longer a threat to the species because conservation strategies implemented following listing and increased Federal ownership now provide additional protections (see *Conservation Efforts,* above).

Direct habitat loss from urbanization and dam construction occurred along the Columbia River in Oregon, and water howellia was thought to be extirpated from that area prior to 2015 (USFWS 2017, entire; Norman 2010, pers. comm.). However, since then, two occurrences of water howellia have been located in the Portland, Oregon, metro area (ORBIC 2017, unpaginated).

Most of the water howellia occurrences on corporate or private lands in Montana were previously owned by Plum Creek Timber. In 2007, approximately 67,000 ac (27,000 ha) of Plum Creek land in the Swan Valley were sold to The Nature Conservancy (TNC) and Trust for Public Land; ownership was then transferred to either the USFS or the State of Montana (Swan Valley Connections 2017, entire). The 47 water howellia occurrences and potential habitat that were formerly on Plum Creek land are now protected from urbanization through either the Flathead National Forest Plan (USFS 1997, entire) or State agency direction for managing timberlands (DNRC 1996, p. 1). The Flathead National Forest Plan mandates avoidance of disturbance, including urbanization, in forested buffers of a minimum of 300 ft (91 m) from water howellia occurrences. The State of Montana manages its timberlands for long-term revenue and biodiversity (DNRC 1996, p. 2) and not for short-term revenue from selling timbered State lands and the potential urbanization that may follow.

It is unknown if historical habitat loss occurred in California; however, most known occurrences of water howellia are within USFS lands, including some within designated wilderness areas (Johnson 2013, pers. comm.). Therefore, no current or future threat of habitat loss from urbanization is expected because any disturbance of vegetated buffers surrounding water howellia ponds is prohibited under the Mendocino National Forest Plan unless it is necessary to promote natural ecological and hydrological function (USFS 1995, pp. IV–19, 35). It is unknown how urbanization has affected the 37 water howellia occurrences on private land, but because there are significantly fewer occurrences known from private lands (12 percent of total known occurrences), these impacts are likely not significant at the species' level.

In sum, habitat loss from urbanization and dam construction occurred historically, particularly in Oregon, but is no longer considered a significant threat. In Oregon, recent new discoveries of water howellia indicate that the species has been able to remain extant on the landscape where it was once considered extirpated. In areas surrounding the extant, larger metapopulations, habitat loss from urbanization and dam construction is not considered a threat to the species because of conservation strategies and land transfers implemented in Montana (USFS) and Washington (USDOD and the Service). Furthermore, known habitat in California is largely within USFS lands, including designated wilderness; thus, there is no significant threat of habitat loss from urbanization or dam construction in California.

*Summary of Habitat-Based Threats*

Based on the final listing rule (59 FR 35860; July 14, 1994), the following stressors warranted consideration as possible current or future threats to water howellia: Invasive species, land management activities, trampling by domestic livestock, and direct habitat loss from urbanization or dam construction. However, as described below, these stressors have not occurred to the extent determined or anticipated at the time of listing in 1994, or the stressors are being adequately managed,

or the species is more tolerant of the stressor than was previously thought.

- Land management plans and conservation management strategies have been adopted by Federal and State agencies to mitigate the effects of land management activities on water howellia and are in place for all three metapopulations. These plans vary in duration, but are longer term (15+ years) and are expected to continue to provide protections to water howellia habitat into the future because the plans (and all future revisions to the plans) are mandated by Federal laws to conserve fish, wildlife, and plant species. For a more in-depth discussion of land management plans and relevant Federal laws, see *Existing Regulatory Mechanisms,* below.
- Suppression efforts directed at reed canarygrass have resulted in some success. Furthermore, water howellia occurrences are not currently being displaced by reed canarygrass, and the best available data do not indicate that they are being displaced by other invasive species.
- The installation of riparian fencing and cattle barricades and the implementation of specific grazing routines have effectively mitigated the effects of trampling on water howellia.
- The extant metapopulations, as well as most occurrences in California, are largely managed by Federal agencies that have conservation strategies in place. Therefore, neither urbanization nor dam construction is a threat to water howellia.
- Limited information is available regarding the 37 occurrences (12 percent of known occurrences) that occur on private property. Due to the low number of occurrences on private land relative to Federal and State land, impacts to water howellia on private lands are likely not significant at the species level.

Therefore, based on the available information, we do not consider there to be any significant habitat-based threats for water howellia.

*Overutilization of the Species*

Overutilization, for any purpose, was not considered a threat in the final rule to list water howellia (59 FR 35860; July 14, 1994). The best available information does not indicate any current use of water howellia for commercial, recreational, scientific, or educational purposes. Regarding future utilization, interest has been expressed by the Valencia Wetland Mitigation Bank in Priest River, Idaho, to collect seed via soil plugs from vigorous water howellia occurrences for use in establishing new occurrences where appropriate habitat exists (Wiechmann 2014b, entire). Initially, a harvest of 5 to 7 soil plugs from other Idaho occurrences has been proposed. The proposed project would be beneficial if it created another occurrence of water howellia in northern Idaho or had educational value. Recent communications with Valencia Wetland Mitigation Bank indicate that they are still interested in pursuing this project (Collier 2020, pers. comm.). We are not aware of any other current or future plans for use of the species. Therefore, based on the available information, we find that there are no significant threats to water howellia related to overutilization for commercial, recreational, scientific, or educational purposes.

*Disease or Predation*

Predation (herbivory) on water howellia by domestic livestock was considered a threat in the final rule to list the species (59 FR 35860; July 14, 1994). As described in more detail above, grazing is limited within the species' habitat, and the occurrence of water howellia in ponds accessible to livestock in the Swan Valley metapopulation has not been affected (Pipp 2017, p. 17). As a result, we conclude that predation does not affect the species throughout its range at the population or species level. The best available information does not indicate that levels of livestock grazing will increase within known occurrences of water howellia in the future. The best available information also does not indicate any issues or potential stressors regarding disease or insect predation. Therefore, based on the available information, we do not consider there to be any significant threats to water howellia from disease or predation.

*Other Factors Affecting the Species*

In this section, we discuss: (1) The narrow ecological requirements of the species in the context of climate change, (2) small population size/low genetic diversity, and (3) the potential for cumulative effects of stressors.

Narrow Ecological Requirements/ Climate Change

Here, we consider the narrow ecological requirements of water howellia in the context of observed or projected changes in climate. The July 14, 1994, listing rule (59 FR 35860) did not discuss the potential impacts of climate change on water howellia. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''climate'' refers to the mean and variability of relevant quantities (*i.e.,* temperature, precipitation, wind) over time (IPCC 2014, pp. 119–120). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (*e.g.,* temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to internal processes or anthropogenic changes (IPCC 2014, p. 120).

Global climate projections are informative, and in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (*e.g.,* IPCC 2013c, 2014, entire) and within the United States (Melillo et al. 2014, entire). Therefore, we use ''downscaled'' projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to spatial scales used for analyses of a given species (see Glick et al. 2011, pp. 58–61, for a discussion of downscaling).

Climate change trends predicted for the Pacific Northwest (Oregon, Washington, Idaho, and Montana) broadly consist of an increase in annual average temperature; an increase in extreme precipitation events; and, with less certainty, variability in annual precipitation (Dalton et al. 2013, pp. 31–38, Figure 1.1; Snover et al. 2013, pp. 5–1–5–4). Lee et al. (2015) describe potential hydrological changes in response to predicted climate change on montane wetlands in the Pacific Northwest. These observations appear to vary with local conditions and include earlier drawdown, more rapid drying out in the summer, and reduced minimum water levels.

Yearly weather patterns influence abundance of water howellia. Abundance of water howellia is typically lower if the preceding season had higher precipitation and/or cooler summer temperatures (Shelly et al. 2016, entire). This decrease is likely due to limited pond drying, which negatively affects seed germination rates due to their need for air exposure to germinate. Conversely, abundance of water howellia is typically higher if the preceding season had lower precipitation and/or hotter summer temperatures (Shelly et al. 2016, entire), due to more pond drying and increased rates of seed germination.

There is uncertainty regarding how the predicted trends in precipitation and air temperature due to climate

change in the Pacific Northwest will influence water howellia. In western Montana, where all the known statewide occurrences of water howellia occur, regional climate data predict (1) increasing average annual air temperatures and (2) precipitation increasing in winter, spring, and fall and decreasing in summer (Montana 2017, pp. 40–63). These predicted conditions are similar to those observed to increase water howellia abundance (*e.g.,* increased pond drying with annual recharge in the winter, spring) in Montana historically. Thus, future climate conditions may be favorable, on average, for water howellia. In Washington, predicted increases in air temperature and more rapid drying of montane wetlands could be favorable to water howellia, assuming adequate recharge in the winter and spring (Shelly et al. 2016, entire). The effects of predicted increased variability in precipitation on water howellia remains unclear. A potential increase in precipitation as a result of climate change may affect the species in several ways. First, increases in precipitation may increase the surface area of existing ponds and wetlands, or create new ones. These new habitats would be available for colonization by water howellia and could increase the range and resiliency of the species. However, new habitats would also be available to invasive species such as reed canarygrass and may also promote their expansion on the landscape. An important factor in increased habitat would likely be the site-specific conditions within each habitat; new habitat with deeper water and longer periods of inundation would likely preclude the establishment of reed canarygrass and be beneficial to water howellia. Conversely, the creation of shallower habitat may favor reed canarygrass. Another possible effect of increased precipitation may be the alteration of the hydrologic cycle of water howellia habitats. Specifically, these habitats may fill earlier (with heavier spring rainfall) and dry later in the season than they did historically, thereby reducing the timing window for air exposure needed for seed germination of water howellia in late summer and autumn.

Alternatively, a potential decrease in precipitation as a result of climate change also may affect water howellia in several ways. Decreases in precipitation may result in water levels that are too low to support the submergent flower production. Additionally, earlier drawdowns and the faster receding of water in these wetlands as a result of decreased precipitation may ultimately limit the continued persistence of ephemeral ponds. This could provide an opportunity for expansion of reed canarygrass and other invasive species. On the other hand, amplified drying may allow for increased germination and expansion of water howellia. Another scenario with decreased precipitation is that the hydrological cycles could be altered in a way that would favor water howellia. Ponds that were previously perennial could potentially become ephemeral in nature, providing the wetting and drying cycle necessary for water howellia reproduction and, consequently, additional habitat for the species to occupy. Again, the site-specific conditions for each habitat would be an important factor.

Changes in precipitation from snow to rain may also affect water howellia, particularly in the southernmost occurrences (*e.g.,* California) (California DWR 2013, p. 22). More precipitation falling as rain rather than snow would likely alter the hydrologic cycle within these habitats. These alterations could include faster drying of wetlands than was observed historically, due to a lack of spring run-off from snow fields and increased annual air temperature. More frequent extreme precipitation events are predicted for California (California DWR 2013, p. 23). The effect of more extreme precipitation events on water howellia habitat in California is unclear, especially given the potential for interactions among precipitation and other environmental variables predicted to change (*e.g.,* reduced snowpack, increased annual air temperature).

The ability of water howellia to self-fertilize and produce seeds at both the early season submergent and later season emergent forms may be an advantage to surviving lengthened, shortened, or generally more inconsistent growing seasons than occurred historically. Seed production from both flower forms in one growing season may increase the opportunity for surviving subsequent inclement years. It is uncertain how increases in water temperature and increased evaporation due to increased ambient temperatures would affect growth and reproduction of water howellia; however, climate conditions that restrict the dual seed production and seed banking could reduce the ability of water howellia to sustain populations over time.

Associated wetland vegetation that positively contributes to suitable microclimates for water howellia could be altered by predicted variance in temperatures and precipitation; the effects of which are uncertain. Occurrences of water howellia in Montana and eastern Washington could be more resilient to these processes than other occurrences because of their distribution over a larger landscape with many separate occurrences. Increasing temperatures combined with increased demand for ground and surface water for human development may compound negative impacts to water howellia in eastern Washington and northern Idaho. Climate-induced effects on water howellia may appear first in California, as these occurrences are at the southern edge of the known range. However, these effects may be buffered by the higher elevation (approximately 3,800 ft (1,158 m)) at which the California occurrences are found compared to elsewhere in the range (western Washington: approximately 15 ft (5 m)).

Predicted environmental changes resulting from climate change may have both positive and negative effects on water howellia, depending on the extent and type of impact and depending on site-specific conditions within each habitat type (Lee et al. 2015, p. 14). The primary predicted negative effect is the alteration of hydrologic regimes (Lee et al. 2015, p. 14) potentially resulting in inconsistent growing seasons. This effect will likely be buffered by the ability of water howellia to produce seeds during both early and late seasons. Predicted environmental effects that may be positive for water howellia include increased habitat, seed dispersal, and species distribution in some areas, including within the three metapopulations due to predicted increases in precipitation across the northern range of the species (IPCC 2014, p. 61). The intact nature and current spatial arrangement (geographically diverse and at varying elevations) of the three large metapopulations will likely provide more resilience to climate change than the smaller, isolated occurrences. Effects of potential composition shifts in vegetation surrounding water howellia occurrences as a result of climate change are unknown.

In summary, climate change is affecting and will continue to affect temperature and precipitation events. The extent, duration, and impact of those changes are unknown, but could potentially increase or decrease precipitation in some areas. Water howellia may experience climate change-related effects in the future, most likely at the individual or local population level. Regional occurrences may experience some shifts. However, it is anticipated that the metapopulations important to the viability of the species would continue to be viable because of resiliency due to geographic and

elevational diversity rangewide and because some of the future predicted air temperature and precipitation conditions are similar to the yearly weather conditions that promote larger abundances of water howellia (lower precipitation and/or hotter summer temperatures). Available information indicates that increased variability in future climate conditions is likely, but that water howellia has some plasticity to environmental change as evidenced by the species' viability despite a changing climate and its life-history strategy of dual seed production and longer-term seed viability to buffer against several consecutive years of unfavorable environmental conditions. Therefore, based upon the best available information, we conclude that climate change is not a significant threat to water howellia.

Small Population Size and Low Genetic Diversity

The final rule to list water howellia (59 FR 35860; July 14, 1994) cited small population size (*i.e.,* limited extent of occupied habitat) as a contributor to its vulnerability. Species that occupy limited amounts of habitat often have reduced viability because they may lack resiliency to recover from stochastic events. Water howellia currently occupies about 400 acres of habitat rangewide, comprised of 307 occurrences with most occurrences occupying less than 1 acre. While most of the occurrences of water howellia are small in areal extent, the arrangement of occupied habitat across 5 States is advantageous to water howellia because increased redundancy and representation increase the capacity of water howellia to survive a catastrophic event. Stochastic events still may affect individual occurrences, but the widespread arrangement of the occurrences increases redundancy and representation. Further, long-term monitoring has shown that water howellia are more tolerant of natural stochasticity or manmade disturbance in buffer areas surrounding occupied ponds than previously thought (Pipp 2017, p. 6). In addition, the documentation of 200 additional occurrences of water howellia since 1994 has increased the redundancy and representation of habitats for water howellia rangewide. This increased redundancy and representation of habitats increases the viability of water howellia, relative to 1994, because of an increased buffer against stochastic and catastrophic events.

The final rule to list water howellia (59 FR 35860; July 14, 1994) cited lack of genetic variation within and among occurrences as a contributor to its vulnerability. Low genetic diversity could limit a species' or population's ability to respond to novel changes in its environment, necessitating redundancy of occurrences across larger areas to increase the probability of survival. At the time of listing in 1994, the only genetic investigation of the species showed very low genetic diversity within and among occurrences in Washington and Montana (Lesica et al. 1988, p. 278). More current genetic results indicate greater genetic diversity within and among occurrences than previously thought; however, diversity is still relatively low (Brunsfeld and Baldwin 1998, p. 2; Schierenbeck and Phipps 2010, p. 5). Another genetic investigation documented that all occurrences are distantly related and that gene flow is likely occurring between the States (Schierenbeck and Phipps 2010, p. 6). However, it is also possible that these results indicate that infrequent, long-distance dispersal events (likely facilitated by waterfowl) do occur, but actual gene flow is not occurring or rarely occurring.

The effects of low genetic diversity of water howellia on adaptability to future climate conditions are unknown. Water howellia is a self-pollinating species; thus, genetic diversity is expected to be lower, in general, than that for cross-pollinating species (Hamrick and Godt 1996, entire). Water howellia populations have remained stable despite rapidly changing air temperatures since the late 1990s (Snover et al. 2013, p. ES–3); however, it is unknown whether future air temperature trajectories will remain similar to those observed from the late 1990s to present. Another consideration is the time scale on which genetic diversity operates. For example, there has been considerable debate about what effective population size is adequate to conserve genetic diversity and long-term adaptive potential (see Jamieson and Allendorf 2012 for review, p. 579). However, loss of genetic diversity is typically not an immediate threat even in isolated populations (Palstra and Ruzzante 2008, p. 3441), but rather is a symptom of deterministic processes acting on the population (Jamieson and Allendorf 2012, p. 580). In other words, loss of genetic diversity typically does not drive species to extinction (Jamieson and Allendorf 2012, entire); other processes, such as habitat degradation, have a more immediate and greater impact on species viability (Jamieson and Allendorf 2012). We acknowledge the documented low genetic diversity of water howellia; however, the best available information indicates that the potential effects from low genetic diversity on water howellia's viability would not occur within the foreseeable future. In addition, the redundancy of smaller occurrences across the species' range may help mitigate for reduced genetic plasticity within individual occurrences because unfavorable environmental conditions affecting one or several occurrences may not affect other occurrences in different parts of the range. The current spatial arrangement of multiple occurrences spread across 5 States is favorable to the species' long-term viability because these occurrences are at different elevations and within varying climatic regimes rangewide (see discussion under ''Narrow Ecological Requirements/Climate Change,'' above). Thus, we do not consider small population size or low genetic diversity to be a significant threat to water howellia.

Cumulative Effects of All Stressors

Many of the stressors faced by water howellia are interrelated and could work in concert with each other, resulting in a cumulative adverse effect on the species. For example, stressors discussed under Factor A that individually do not rise to the level of a threat could together result in habitat loss. Similarly, small population size in combination with stressors discussed under Factor A could present a potential concern.

Climate change is occurring across the range of the species, coinciding with all other identified stressors. As described previously, variations in climatic conditions may favor or preclude invasive species, depending on site-specific habitat factors. Also described previously, climate change may alter hydrological cycles. However, despite changing climate conditions, water howellia has sustained populations across its range. Analysis of long-term datasets and observations indicate the species has maintained viability even with climate change interacting with other potential stressors (Gilbert 2017, pers. comm.; Rule 2017, pers. comm.; Pipp 2017, entire; Rule 2020, in progress). This indicates that water howellia has some capacity to survive and reproduce, despite potential cumulative effects of climate change and other stressors to date. Nevertheless, we recognize that there are uncertainties associated with future climate change predictions and potential cumulative effects. Ongoing management and monitoring of water howellia (via the post-delisting

monitoring plan) is designed to detect potential future changes in the species' distribution and abundance.

There may be locations of water howellia occurrences where invasive species are present, and cattle have access to occupied ponds. Grazing may limit the expansion of invasive species in these instances. Otherwise, we are not aware of particular locations within water howellia occurrences where multiple stressors occur. Also, we do not anticipate stressors to increase on federally managed lands, which afford protection to the species in most of the occupied habitat. Furthermore, the documented new occurrences and greater distribution of the species since it was listed in 1994 provide additional resiliency, redundancy, and representation across the range of the species, which is expected to increase the viability of the species in the face of cumulative threats. Therefore, we conclude, based on the available information, that cumulative effects are not a significant threat to water howellia.

*Summary of Other Factors Affecting the Species*

Given the lack of threats within water howellia occurrences and increases in the species' known distribution since listing in 1994, we conclude that climate change, small population size and low genetic diversity, and cumulative effects are not significant threats to water howellia.

*Existing Regulatory Mechanisms*

We examined the stressors identified within the other factors as ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts for water howellia. Section 4(b)(1)(A) of the Act requires the Service to take into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect endangered or threatened species. We consider relevant Federal, State, and Tribal laws, regulations, and other such binding legal mechanisms that may ameliorate or exacerbate any of the threats we describe in the threats analysis or otherwise enhance the conservation of the species. We give the strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations; an example is State governmental actions enforced under a State statute or constitution or Federal action under the statute.

For currently listed species, we consider the adequacy of existing regulatory mechanisms to address threats to the species absent the protections of the Act. Therefore, we examine whether other regulatory mechanisms would remain in place if the species were delisted, and the extent to which those mechanisms will continue to help ensure that future threats will be reduced or eliminated.

In our previous discussion of threats, we evaluate the significance of threats as mitigated by any conservation efforts and existing regulatory mechanisms. Where threats exist, we analyze the extent to which conservation measures and existing regulatory mechanisms address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats.

Although inadequacy of existing regulatory mechanisms was not specifically identified as a threat to water howellia at the time of listing in 1994, we did mention the very limited number of protections that existed for the species (59 FR 35860, July 14, 1994, see p. 59 FR 35862). Specifically, we discussed the designation of water howellia as a sensitive species by the USFS and referred to wetland protection measures provided under section 404 of the Federal Clean Water Act (33 U.S.C. 1251 *et seq.*), title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*), and some State laws.

Federal

*Clean Water Act:* The Clean Water Act (CWA) was designed, in part, to protect surface waters of the United States from unregulated pollution from point sources. The CWA provides some benefit to water howellia through the regulation of discharge into surface waters through a permitting process; however, the historical threats to water howellia habitat have not typically been associated with point sources of pollution, and current information does not point to these as threats for occurrences today.

Under section 404 of the CWA, the U.S. Army Corps of Engineers (USACE) regulates the discharge of fill material into waters of the United States, including wetlands. In general, the term ''wetland'' refers to areas meeting the USACE's criteria of hydric soils, hydrology (either sufficient annual flooding or water on the soil surface), and hydrophytic vegetation (plants specifically adapted for growing in wetlands). Some habitat occupied by water howellia is considered isolated waters under the CWA. As a result of various Supreme Court decisions, the CWA's jurisdiction over isolated waters has been uncertain and generally determined case-by-case. Further, Federal agencies are currently considering removing isolated waters from CWA jurisdiction (82 FR 34899; July 27, 2017). Thus, the extent of water howellia receiving the protections of the CWA now and in the future is uncertain. However, the protections of the CWA to water howellia habitat that is under CWA jurisdiction are expected to remain when the species is delisted and the protections of the Act removed.

*Food Security Act:* The Food Security Act was designed, in part, to protect wetlands by removing incentives for farmers to convert wetlands into crop fields. The Food Security Act likely provides some indirect protection of potential water howellia habitats on private land, but not those on Federal or State land. Although there are no data directly linking the Food Security Act and water howellia, historically, it has been demonstrated that the Food Security Act has had positive impacts on wetland function (Gleason et al. 2011, p. S65). Although the future of the Food Security Act in its current form is uncertain, any protections afforded to wetlands would confer benefit to water howellia should the species be present.

*National Environmental Policy Act:* Environmental review of potential effects of Federal actions is mandated under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). When NEPA analysis reveals significant environmental effects, the Federal agencies must disclose those effects to the public and consider mitigation that could offset the effects. These mitigations usually provide some protections for listed species. However, the NEPA does not require that adverse impacts be mitigated, only disclosed. Therefore, because NEPA is procedural, it does not independently provide protection for the species.

*National Forest Management Act:* Federal activities on USFS lands are subject to the National Forest Management Act of 1976 (NFMA; 16 U.S.C. 1600 *et seq.*). The NFMA requires the development and implementation of resource management plans that guide the maintenance of ecological conditions that support natural distributions and abundance of species and not contribute to their extirpation.

In 2018, the Flathead National Forest in Montana revised its resource management plan (often called a forest plan), and the Mendocino National Forest in California anticipates revising their forest plan in the near future. The revised Flathead National Forest plan includes measures for conservation of the known water howellia occurrences on USFS land in Montana by

incorporating the existing USFS conservation strategy for water howellia into the revised forest plan (USFS 2018, pp. 20, 45–46, 52, 99–100, 143–144; Shelly 2019, pers. comm.; USFS 1997, pp. 17–18). The inclusion of the conservation strategy into the revised forest plan is important, because in addition to providing conservation measures for known water howellia occurrences, it also provides for conservation of ponds that are suitable habitat but are currently unoccupied. Guidance provided in the Mendocino National Forest plan has resulted in the use of buffer strips to protect riparian species and function surrounding ponds occupied by water howellia in California. Both the Flathead National Forest plan and Mendocino National Forest plan are expected to continue to be implemented when water howellia is delisted, based on discussions with the USFS (see *Conservation Efforts* and *Habitat-based Threats,* above) and the fact that these plans are longer term (15+ years; NFMA, 16 U.S.C. 1600 *et seq.*) forest planning documents. Further, NFMA requires forest plans to provide protection for streams, stream banks, shorelines, lakes, wetlands, and other bodies of water from detrimental changes in water temperatures, blockages of water courses, and deposits of sediment, where tree harvests are likely to seriously and adversely affect water conditions or fish habitat. Thus, any future revisions to the Flathead National Forest or Mendocino National Forest plans would still provide some protections to water howellia and its habitat.

Water howellia is given consideration as a Federal species at risk by Federal agencies under the 2012 National Forest System land management planning rule (77 FR 21162; April 9, 2012). When delisted, water howellia will be evaluated for designation as a species of special concern and designated as such if there is substantial concern for its viability in the plan area. The USFS anticipates that water howellia will be given the status of ''species of conservation concern'' in both plans when the species is delisted (Shelly 2016, pers. comm.; Johnson 2017, pers. comm.). If water howellia is not given the status of ''species of conservation concern'' upon delisting, the 2012 planning rule still requires any forest plan to provide for the diversity of plant and animal communities and the long-term persistence of native species in the plan area. Further, the planning rule also requires a forest plan to provide ecological conditions to keep common native species common, contribute to the recovery of endangered and threatened species, conserve candidate species and species proposed for listing, and maintain viable populations of species of conservation concern within the plan area. Thus, any future revisions to the Flathead National Forest or Mendocino National Forest plans will provide some protections to water howellia and its habitat.

*Federal Land Policy and Management Act:* Similar to NFMA, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) applies to the Bureau of Land Management (BLM) with regard to the conservation and use of public lands under their management. Water howellia is given consideration as a federally listed species by Federal agencies, and when delisted, will likely be included on the sensitive species list for the BLM as it was at the time of listing (59 FR 35860; July 14, 1994). Special status species policies (BLM manual, section 6840, p. 37) detail the need to conserve these species and the ecosystems on which they depend using all methods and procedures which are necessary to improve the condition of special status species and their habitats to a point where their special status recognition is no longer warranted. The one occurrence of water howellia in Washington on BLM land is vulnerable to localized actions. However, application of best management practices (BMPs) consistent with resource management plan (RMP) direction appears to have maintained this occurrence since 1993 (Frymire 2017, pers. comm.). The implementation of BMPs is expected to continue in the absence of protections under the Act.

*Sikes Act:* Water howellia occurrences and habitats on Federal military installations (JBLM in Pierce County, Washington) are managed under an integrated natural resources management plan (INRMP) (USDOD 2006, pp. 4–6) authorized by the Sikes Act (16 U.S.C. 670a *et seq.*). Protections for water howellia habitat in the INRMP include restrictions on motorized equipment and military training activities in wetlands occupied by water howellia. In concert with the INRMP, JBLM has developed an Endangered Species Management Plan for water howellia that establishes conservation goals, management prescriptions, and monitoring efforts (USDOD 2012, entire). These protections are expected to continue when the species is delisted because the Sikes Act mandates USDOD to conserve and rehabilitate wildlife, fish, and game on military reservations.

*National Wildlife Refuge System Improvement Act:* As directed by the National Wildlife Refuge System Improvement Act (Pub. L. 105–57, 16 U.S.C. 668dd), Refuge managers have the authority and responsibility to protect native ecosystems, fulfill the purposes for which an individual refuge was founded, and implement strategies to achieve the goals and objectives stated in management plans. For example, Turnbull NWR (Spokane County, Washington) includes extensive habitat for water howellia, including 35 known occupied sites. The NWR's comprehensive conservation plan (CCP) is a land management plan with a 15-year term that directs protection of these habitats and identifies specific objectives relative to research and monitoring, invasive species management, and education regarding water howellia (USFWS 2007, p. 2–22). Given the 15-year timeframe of CCPs, unless the CCPs are modified earlier, these protections will remain in place until at least 2022 regardless of water howellia's Federal listing status. After 2022, the Turnbull NWR can revise the CCP, if needed. However, the likelihood of future CCP revisions including conservation of water howellia are high, because the National Wildlife Refuge System Improvement Act mandates conservation of fish, wildlife, and plants, and their habitats within the Refuge System. In addition, the overarching goal of the National Wildlife Refuge System is to manage their lands and waters for the conservation of fish, wildlife, and plant resources and their habitats, further underscoring the high likelihood of future protections for water howellia and its habitat.

In 2010, Ridgefield NWR in western Washington finalized a CCP that includes several conservation strategies for water howellia. These strategies include allowing natural flooding cycles and various methods (*e.g.,* mechanical, biological, chemical) for invasive species control (USFWS 2010, pp. 2–37, 2–54). Given the 15-year timeframe of CCPs, protections outlined in the Ridgefield NWR CCP for water howellia are expected to remain in place until at least 2025, regardless of water howellia's Federal listing status. After 2025, the Ridgefield NWR can revise the CCP, if needed. However, the likelihood of future CCP revisions including conservation of water howellia are high, because the National Wildlife Refuge System Improvement Act mandates conservation of fish, wildlife, and plants, and their habitats within the Refuge System. In addition, the overarching goal of the National Wildlife Refuge System is to manage

their lands and waters for the conservation of fish, wildlife, and plant resources and their habitats, further underscoring the high likelihood of future protections for water howellia and its habitat.

State

*Montana Streamside Management Zone Act:* The Montana Streamside Management Zone Act (SMZ), in part, designates vegetated buffer strips around surface waters, including wetlands adjacent to streams (and thus potential water howellia habitat), within the boundaries of timber harvest units in Montana. The SMZ law covers Federal, State, and private commercial timber practices (Montana Code Annotated 2019, title 77, chapter 5, part 3). The SMZ law specifically prohibits slash fill of wetlands, off-road vehicle use, and clear cutting within 50 ft (15 m) of water bodies (Montana Code Annotated 2019, title 77, chapter 5, part 3, at 77–5–303). There are no buffer strips designated for isolated wetlands (those not adjacent to a stream/river) under the SMZ and only voluntary restrictions on equipment travel through isolated wetlands. Although unclear, some water howellia occurrences in Montana's Swan Valley may occur in isolated wetlands. Thus, the direct loss of habitat or plants for a small number of occurrences from timber harvest activities is a possibility if water howellia plants occupy isolated wetlands within a timber harvest unit. However, audits of timber sale practices conducted by interdisciplinary review teams have consistently documented few violations of the SMZ law and generally high (greater than 90 percent) compliance with voluntary regulations in the recent past (Montana DNRC 2016, entire). Thus, while there is potential for water howellia habitat to be lost for occurrences in isolated wetlands, the magnitude of the stressor appears small. As State law, the protections of the SMZ are expected to continue when we delist water howellia.

*Washington Natural Heritage Plan:* Washington State's Natural Heritage Plan identifies priorities for preserving natural diversity, including wetlands, in Washington State (Washington Department of Natural Resources (DNR) 2007, 2011, entire). The plan aids Washington DNR in conserving key habitats that are currently imperiled or expected to be in the future. The prioritization of conservation efforts provided by this plan is expected to remain in place when we delist water howellia.

*Washington Forest Practices Act:* Washington State's Forest Practices Act, and associated regulations and rules (Revised Code of Washington, title 76, chapter 76.09; Washington Administrative Code, title 222, chapter 222–08), provides protection of wetlands from the fill and cutting that could result from commercial timber harvest operations. Minimum buffers of 25 ft (8 m) are designated around ponds and wetlands inside timber sale boundaries, effectively prohibiting most harvest and all heavy equipment used in these areas. These buffers protect water howellia habitat from disturbance and minimize impacts to water quality. As State law, these protections are expected to remain in place when we delist water howellia.

*Oregon Revised Statutes (ORS), Chapter 564:* ORS 564 requires non-Federal public agencies to protect State-listed plant species found on their lands. Any land action on Oregon non-Federal public lands which results, or might result, in the taking of an endangered or threatened species requires consultation with the Oregon Department of Agriculture (ODA) staff. Removal of Federal protections for water howellia will remove State protection of the species under this statute because water howellia was never formally listed by ODA. However, protections are expected to remain in place due to other rare, sensitive plant species in the area inhabited by water howellia and the commitment of the Metro (Portland-area regional government) to protect the only known occurrences of water howellia in Oregon (Currin 2013, pers. comm.).

*Summary of Existing Regulatory Mechanisms*

As discussed above and under the other factors, conservation measures and existing regulatory mechanisms (such as Federal and State land management plans and conservation strategies) have ameliorated, or are continuing to minimize, the previously identified threats of invasive species, land management activities (primarily timber harvest and road building), trampling by domestic livestock, and direct habitat loss from urbanization or dam construction to all three water howellia metapopulations. As indicated above, the majority of these mechanisms will remain in place regardless of the species' Federal listing status. In Montana, the existing conservation strategy for water howellia is now part of the Flathead National Forest Plan; thus, the Montana metapopulation will continue to receive protections regardless of its status under the Act. In Washington on National Wildlife Refuges, there is a high likelihood that any future CCP revisions will include protections for water howellia because the mission of the National Wildlife Refuge System is to manage their lands specifically for conservation of fish, wildlife, and plant resources and their habitats; thus, water howellia and its habitat on Refuge land are expected to be conserved into the future. In Washington on JBLM, an Endangered Species Management Plan specifically speaks to the management of wetlands to benefit water howellia, and the Sikes Act mandates wetland protection, enhancement, and restoration, where necessary for the support of fish, wildlife, or plants, regardless of the species' status under the Act. Thus, all three metapopulations are protected by regulatory mechanisms that have been shown to be effective and are expected to continue to be effective regardless of the species' status under the Act. Consequently, we find that conservation measures, along with existing regulatory mechanisms, are adequate to address these specific stressors.

**Summary of Comments and Recommendations**

In the proposed rule published in the **Federal Register** on October 7, 2019 (84 FR 53380), we requested that all interested parties submit written comments on our proposal to delist water howellia by December 6, 2019. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in California (Times Standard in Eureka and Mendocino Beacon in Fort Bragg), Montana (Missoulian in Missoula and Interlake in Kalispell), Oregon (Oregonian in Portland), and Washington (News Tribune in Tacoma and Spokesman Review in Spokane). We did not receive any requests for a public hearing. All substantive information provided during the comment period was either incorporated directly into this final rule or is addressed below.

*Peer Reviewer Comments*

In accordance with our joint policy on peer review policy published on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act (USFWS 2016, entire), we solicited expert opinion from nine knowledgeable individuals with scientific expertise and familiarity with water howellia, its habitat, its taxonomy, its biological needs and potential threats, or

principles of conservation biology. We received responses from three peer reviewers.

We reviewed and addressed all comments we received from the peer reviewers for substantive issues and new information regarding the proposed delisting of water howellia. The peer reviewers provided additional information, clarifications, and suggestions to improve the final rule. All changes suggested by peer reviewers are incorporated into the text of this final rule. Such changes include additional details and/or clarity concerning population monitoring vs. surveying, predicted effects of invasive species, regulatory mechanisms, climate change, wetland/pond hydrology, genetic diversity, cumulative effects, post-delisting monitoring, and metapopulation structure. We also made other minor editorial clarifications and corrections in this final rule based on peer reviewer comments.

*Public Comments*

We received six letters from the public that provided comments on the proposed rule. Most of these commenters either generally supported or generally opposed the delisting of the species without providing further information.

One commenter opposed our use of 2013 data to support our proposed delisting action; this commenter argues that these data are outdated. We have incorporated updated sources of information (118 instances of using data more recent than 2013), where applicable, in this rule and have not relied solely on data from 2013 (32 instances of using data from 2013, where appropriate). In accordance with section 4(b)(1)(a) of the Act, we use the ''best scientific and commercial information available,'' regardless of its date, to inform our determinations under section 4(a)(1) of the Act.

Another commenter provided substantive comments, mainly related to the occurrences of water howellia in California. We incorporated the updated information provided by this public commenter into this final rule.

**Determination of Water Howellia's Status**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following 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.

*Status Throughout All of Its Range*

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to water howellia, including invasive species (Factor A), land management activities (Factor A), trampling by domestic livestock (Factor A), direct habitat loss from urbanization or dam construction (Factor A), predation (herbivory) by domestic livestock (Factor C), narrow ecological requirements of the species in the context of climate change (Factor E), small population size/low genetic variation (Factor E), and cumulative effects of stressors (Factor E). Based on the best available information, and as described in our threats analysis, above, the identified stressors fall into one or more of the following categories:

- Stressors that have not occurred to the extent anticipated at the time of listing and existing information indicates that this will not change in the future (trampling by domestic livestock, predation (herbivory), direct habitat loss from urbanization or dam construction).
- Stressors that are adequately managed and existing information indicates that this will not change in the future (invasive species, land management activities).
- Stressors for which the species is tolerant and existing information indicates that this will not change in the future (narrow ecological requirements of the species in the context of climate change, small population size/low genetic variation, cumulative effects).

Thus, our analysis of this information indicates that these stressors are not of sufficient imminence, intensity, or magnitude to indicate that water howellia is in danger of extinction or likely to become so within the foreseeable future throughout all of its range. Therefore, after assessing the best available information, we determine that water howellia is not in danger of extinction throughout all of its range nor is it likely to become so in the foreseeable future throughout all of its range.

*Status Throughout a Significant Portion of Its Range*

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. Having determined that water howellia is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range—that is, whether there is any portion of the species' range for which it is true that both (1) the portion is significant; and (2) the species is in danger of extinction now or likely to become so in the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In undertaking this analysis for water howellia, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species may be endangered or threatened.

For water howellia, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats:

- Invasive species—Invasive species, particularly reed canarygrass, are widely scattered throughout the species' range, with no concentration in any particular area. Furthermore, water howellia metapopulations appear to be able to coexist with invasive species even in the absence of suppression efforts.
- Land management activities—On Federal lands (where 84 percent of water howellia occurrences are), most land management activities that could disturb vegetation surrounding water howellia are now either prohibited or designed to minimize impacts. On State lands, clear-cutting of timber and broadcast burning are either prohibited within defined buffers or not identified

as threats. Therefore, adverse practices on Federal and State lands are very infrequent and are not concentrated in any particular area of the species' range.

• Trampling by domestic livestock—Effects of trampling on water howellia occurrences on Federal and State land have largely been mitigated with fencing, cattle barricades, elimination of grazing in some areas occupied by water howellia, or limitations on the duration of time livestock have access to sensitive pond and wetland habitats. Therefore, effects from trampling on Federal and State lands are very infrequent and are not concentrated in any particular area of the species' range.

• Direct habitat loss from urbanization or dam construction—Further habitat loss from urbanization and dam construction is no longer a threat to the species because conservation strategies and increased Federal ownership now provide additional protections. Consequently, direct habitat loss from these activities is minimal and is not concentrated in any particular area of the species' range.

• Predation (herbivory) by domestic livestock—Similar to trampling, the effects from grazing are limited within water howellia habitat, and the species has maintained viability in ponds accessible to livestock. Therefore, its effects on Federal and State lands and are not concentrated in any particular area of the species' range.

• Narrow ecological requirements of the species in the context of climate change—Metapopulations important to the viability of the species are expected to sustain occurrences because of resiliency due to geographic and elevational diversity rangewide. Some of the future predicted air temperature and precipitation conditions are similar to the yearly weather conditions that promote larger abundances of water howellia (lower precipitation and/or hotter summer temperatures). Available information indicates that increased variability in future climate conditions is likely, but water howellia has some plasticity to environmental change as evidenced by its viability despite a changing climate and its life-history strategy of dual seed production and longer-term seed viability to buffer against several consecutive years of unfavorable environmental conditions. Therefore, despite occurring throughout the species' range, the potential effects are minimal and are not concentrated in any particular area of the species' range.

• Small population size/low genetic variation—Most occurrences of water howellia are small in areal extent; however, the arrangement of occupied habitat across five States increases redundancy, representation, and the capacity to survive a catastrophic event. In addition, the documentation of 200 additional occurrences of water howellia since 1994 has increased the redundancy and representation of habitats for water howellia rangewide. Small populations are not concentrated in any particular area of the species' range.

• Cumulative effects—Analysis of long-term datasets indicates the species has maintained viability and has the capacity to survive and reproduce, despite potential cumulative effects of climate change and other stressors. Potential cumulative effects are not concentrated in any particular area of the species' range.

We found no concentration of threats in any portion of the water howellia's range at a biologically meaningful scale. Therefore, no portion of the species' range can provide a basis for determining that the species is in danger of extinction now or likely to become so in the foreseeable future in a significant portion of its range, and we find that the species is not in danger of extinction now or likely to become so in the foreseeable future throughout all of its range. This is consistent with the court's holding in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018) and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

*Determination of Status*

Our review of the best available scientific and commercial information indicates that water howellia does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we are removing water howellia from the List of Endangered and Threatened Plants.

**Effects of This Rule**

This rule revises 50 CFR 17.12(h) to remove water howellia from the Federal List of Endangered and Threatened Plants. Because no critical habitat was ever designated for this species, this rule does not affect 50 CFR 17.96.

The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, will no longer apply to this species. Federal agencies will no longer be required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect water howellia.

**Post-Delisting Monitoring**

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been delisted due to recovery. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

We are delisting water howellia based on new information we have received as well as conservation actions taken. Since delisting is, in part, due to conservation taken by stakeholders, we have prepared a post-delisting monitoring (PDM) plan for water howellia. The PDM plan was drafted collaboratively with stakeholders and was reviewed by both peer and public reviewers during the comment period for the proposed delisting rule (84 FR 53380; October 7, 2019). The PDM plan discusses the current status of the taxon and describes the methods for monitoring the taxon. The PDM plan: (1) Summarizes the status of water howellia at the time of delisting; (2) describes frequency and duration of monitoring; (3) discusses monitoring methods and sampling regimes; (4) defines what potential triggers will be evaluated to address the need for additional monitoring; (5) outlines reporting requirements and procedures; (6) outlines a schedule for implementing the PDM plan; and (7) defines responsibilities. It is our intent to work with our partners towards maintaining the recovered status of water howellia. The PDM plan is available on the internet at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2018–0045.

**Required Determinations**

*National Environmental Policy Act*

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We are aware of two water howellia occurrences that occur on Tribal lands; we have notified the Tribes that may be affected by this rule and offered government-to-government consultation.

**References Cited**

A complete list of all references cited in this rule is available on the internet at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2018–0045, or upon request from the Montana Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The authors of this final rule are staff members of the Montana Ecological Services Field Office and field and regional offices in California, Colorado, Idaho, Oregon, and Washington.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

**§ 17.12 [Amended]**

■ 2. Amend § 17.12(h) by removing the entry for ''*Howellia aquatilis*'' under FLOWERING PLANTS from the List of Endangered and Threatened Plants.

**Martha Williams,**

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

[FR Doc. 2021–12522 Filed 6–15–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–R4–ES–2019–0073; FF09E22000 FXES1113090FEDR 212]**

**RIN 1018–BB83**

## Endangered and Threatened Wildlife and Plants; Removal of Lepanthes eltoroensis From the Federal List of Endangered and Threatened Plants

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are removing *Lepanthes eltoroensis* (no common name), an orchid species from Puerto Rico, from the Federal List of Endangered and Threatened Plants, due to recovery. This determination is based on a thorough review of the best available scientific and commercial information, which indicates that the threats to the species have been eliminated or reduced to the point that the species no longer meets the definition of an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). Accordingly, the prohibitions and conservation measures provided by the Act will no longer apply to this species.

**DATES:** This rule is effective July 16, 2021.

**ADDRESSES:** The proposed and final rules, the post-delisting monitoring plan, and the comments received on the proposed rule are available on the internet at *http://www.regulations.gov* in Docket No. FWS–R4–ES–2019–0073.

**FOR FURTHER INFORMATION CONTACT:** Edwin Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office (see **ADDRESSES**, above). If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a rule.* Under the Act, a species may be delisted (*i.e.,* removed from the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists)) if it is determined that the species has recovered and no longer meets the definition of an endangered or threatened species. Removing a species from the Lists can only be completed by issuing a rule.

*What this document does.* This rule removes *Lepanthes eltoroensis* from the Federal List of Endangered and Threatened Plants, based on its recovery.

*The basis for our action.* We may delist a species if we determine, after a review of the best scientific and commercial data, that: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species; or (3) the listed entity does not meet the statutory definition of a species (50 CFR 424.11(e)). Here, we have determined that the species may be delisted because it no longer meets the definition of an endangered species or a threatened species, as it has recovered.

**Previous Federal Actions**

On March 10, 2020, we published in the **Federal Register** (85 FR 13844) a proposed rule to remove *Lepanthes eltoroensis* (no common name) from the Federal List of Endangered and Threatened Plants (List). Please refer to that proposed rule for a detailed description of previous Federal actions concerning this species. The proposed rule and supplemental documents are provided at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2019–0073.

**Species Status Assessment Report**

A team of Service biologists, in consultation with other species experts, prepared a species status assessment (SSA) report for *Lepanthes eltoroensis.* The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. We solicited independent peer review of the SSA report by five individuals with expertise in *L. eltoroensis* or similar epiphytic (*i.e.,* a plant that grows on another plant for support but not for food) orchid species' biology or habitat, or climate change. The final SSA, which supports this final rule, was revised, as appropriate, in response to the

comments and suggestions received from our peer reviewers. The SSA report and other materials relating to this rule can be found on the Service's Southeast Region website at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2019–0073.

**Summary of Changes From the Proposed Rule**

In preparing this final rule, we reviewed and fully considered all comments we received during the comment period from the peer reviewers and the public on the proposed rule to delist *Lepanthes eltoroensis.* Minor, nonsubstantive changes and corrections were made throughout the document in response to comments. However, the information we received during the public comment period on the proposed rule did not change our determination that *L. eltoroensis* no longer meets the definition of endangered or threatened under the Act.

**Species Information**

A thorough review of the taxonomy, life history, and ecology of *Lepanthes eltoroensis* is presented in the SSA report (Service 2019, entire), which is available at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2019–0073 and summarized in this final rule.

*Species Description*

*Lepanthes eltoroensis* is a member of a large genus of more than 800 orchid species. Approximately 118 species in this genus are from the Caribbean, and all but one are single-island endemics (Stimson 1969, p. 332; Barre and Feldmann 1991, p. 11; Tremblay and Ackerman 1993, p. 339; Luer 2014, p. 260). This species is a small, epiphytic orchid about 1.57 inches (in.) (4 centimeters (cm)) tall and is distinguished from other members of the genus by its obovate to oblanceolate leaves, ciliate sepals, and the length of the inflorescence (Vivaldi *et al.* 1981, p. 26; Luer 2014, p. 260). The inflorescence is a small (0.03 in.; 0.75 millimeters (mm)), peduncled raceme (flower cluster with flowers on separate short stalks) with reddish flowers. No more than two flowers are produced at the same time, and the flowers are open on the inflorescence for about 10 days (Meléndez-Ackerman and Tremblay 2017, p. 1).

*Life History*

We considere *Lepanthes eltoroensis* to be a single metapopulation, with the individual trees that host the *L. eltoroensis* plants as subpopulations, and the host tree aggregates as patches (Service 2019, p. 16). A number of characteristics (see below) indicate that a metapopulation approach may be appropriate to understand orchid population dynamics (see Service 2019, pp. 14–15) and epiphytic species (Snall *et al.* 2003, p. 567; Snall *et al.* 2004, p. 758; Snall *et al.* 2005, pp. 209–210) like *L. eltoroensis.* Metapopulations are defined as a set of subpopulations with independent local dynamics occupying discrete patches (Hanski 1999, entire; Hanski and Gaggiotti 2004, pp. 3–22) so that simultaneous extinction of all subpopulations is unlikely.

Metapopulations of *Lepanthes* orchids exhibit high variance in reproductive potential, high variance in mean reproductive lifespan (Tremblay 2000, pp. 264–265), and few adults per subpopulation (Tremblay 1997a, p. 95). Less than 20 percent of individuals reproduce, and most subpopulations (60 percent of host trees) have fewer than 15 individuals. In addition, the distribution of individuals (seedling, juvenile, and adults) varies enormously among subpopulations (*i.e.* host trees) and is skewed towards few individuals per tree (Tremblay and Velazquez-Castro 2009, p. 214). The lifespan of *L. eltoroensis* can reach 30 to 50 years (Tremblay 1996, pp. 88–89, 114). However, the mean is 5.2 years, with an average percent mortality of 10 percent per year, although this varies greatly among life stages. Survival increases as individual orchids reach later life stages, but fewer plants reach adulthood and have the opportunity to contribute offspring to the next generation (Tremblay 2000, p. 265; Rosa-Fuentes and Tremblay 2007, p. 207). Because the species occurs within a protected National Forest, access to moss, dispersal ability, reproductive success, and lifespan influence survivorship more than other potential human-induced threats (Tremblay 2000, p. 265; Rosa-Fuentes and Tremblay 2007, p. 207).

The reproductive success of *Lepanthes eltoroensis* subpopulations is highly sensitive to temporal variation in environmental conditions (Tremblay and Hutchings 2002, entire). Further, reproductive success of *L. eltoroensis,* as in most orchids, is pollinator-limited (Tremblay *et al.* 2005, p. 6). This obligate cross-pollinated species (Tremblay *et al.* 2006, p. 78) uses a deceptive pollination system (the plants send false signals to the insects, imitating some rewarding conditions), typically characterized by very few reproductive events (~ less than 20 percent chance; Tremblay et al. 2005, p. 12). Although we do not know the pollinator for *L. eltoroensis,* elsewhere fungus gnats visit *Lepanthes* orchids (Blanco and Barboza 2005, p. 765) and pollinate by pseudocopulation (*i.e.,* attempted copulation by a male insect with the orchid flower that resembles the female, carrying pollen to it in the process). Therefore, it is likely fungus gnats are a pollinator for *L. eltoroensis.* Fungus gnats do not travel far—perhaps tens of meters or even a few hundred meters (Ackerman 2018)—limiting pollen dispersal for *L. eltoroensis.* Most *L. eltoroensis* pollination occurs among individuals within a host tree, resulting in high inbreeding and low genetic variability (Tremblay and Ackerman 2001, pp. 55–58). The seeds of *L. eltoroensis* are wind-dispersed and require a mycorrhizal association for germination and survival until plants start photosynthesis (Tremblay and Ackerman 2001, p. 55; Tremblay 2008, p. 85).

*Distribution and Abundance*

*Lepanthes eltoroensis* is endemic to EYNF, Puerto Rico. It is restricted to one general area within the Sierra Palm, Palo Colorado, and dwarf forests of the El Toro and Trade Winds trails (Service 2015, p. 5) at elevations above 2,461 feet (750 meters) (Service 1996, p. 2). At the time of listing, the species consisted of an estimated 140 individual plants. Since then, surveys have located additional individuals and subpopulations (groups of *L. eltoroensis* on the same host tree), resulting in a much greater estimate of individuals than at the time of listing. Surveys for *L. eltoroensis* have been infrequent, sparse, and done with varying spatial spread and methodology, making the results difficult to compare over time (Service 2019, pp. 34–52). However, partial surveys conducted periodically from 2000 to 2018 have found greater numbers of *L. eltoroensis* (Service 2019, pp. 49–50). In addition, surveys conducted between 2000 and 2005 indicated the subpopulations surveyed along El Toro Trail and Trade Winds Trail were relatively stable over the 5-year period (Service 2019, p. 39). The best available metapopulation estimate is 3,000 individual plants (Tremblay 2008, p. 90; Service 2015, p. 5). Overall, data do not indicate a general pattern of decline, but rather natural fluctuations (Service 2019, p. 52).

The 3,000 plant population estimate was made prior to category 5 Hurricane Maria making landfall in 2017. A post-hurricane partial survey along the El Toro Trail was completed in 2018, and found 641 total plants, including over 300 that had not been previously identified (Meléndez-Ackerman 2018, pers. comm.). We note that this was only a partial survey; there has never

been a complete census of the entire metapopulation because most of the areas off the two main trails (El Toro and Trade Winds) are dangerous and inaccessible.

The forest types *Lepanthes eltoroensis* is most affiliated with—Palo Colorado, Sierra Palm, and Dwarf Forest—cover over 13,000 acres (5,261 hectares) within the EYNF (Service 2019, p. 8). Given the amount of unreachable habitat that has not been surveyed, all estimates are likely to underestimate the true abundance of the species (Service 2019, p. 50). Surveys of habitat outside traditionally surveyed sites (on or just off trails) could result in discovery of additional plants (Tremblay 2008, p. 90; Service 2019, pp. 18, 50, 73). In addition, since the time of listing, the species has faced multiple strong hurricanes (Hugo, Georges, Hortense, Irma, and Maria), while the species' abundance has remained stable (with all age classes represented and in good health); thus, we conclude the species has the ability to recover from stochastic disturbances (Service 2019, pp. 51–52). Therefore, although the species and its habitat were harmed by the recent hurricanes (namely Maria), the previous estimate of 3,000 individual plants is still our best estimate.

*Habitat*

*Lepanthes eltoroensis* occurs on moss-covered trunks (*i.e.,* host trees) within upper elevation cloud forests in the Sierra Palm, Palo Colorado, and Dwarf Forest associations of EYNF (Luer 2014, p. 260; Ewel and Whitmore 1973, pp. 41–49), where humidity ranges from 90 to 100 percent, and cloud cover is continuous, particularly during the evening hours (55 FR 41248; October 10, 1990). Important habitat components seem to be elevation, adequate temperature and moisture regimes, open/semi-open gaps in the canopy, and presence of moss.

**Recovery and Recovery Plan Implementation**

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species, unless we determine that such a plan will not promote the conservation of the species. Recovery plans are not regulatory documents. Rather, they are intended to establish goals for long-term conservation of a listed species and define criteria that are designed to indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act. Recovery plans also provide guidance to our Federal, State, and other governmental and nongovernmental partners on methods to minimize threats to listed species.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may have been exceeded while other criteria may not have been accomplished or become obsolete, yet we may judge that, overall, the threats have been minimized sufficiently, and the species is robust enough, to reclassify the species from endangered to threatened or perhaps delist the species. In other cases, recovery opportunities may be recognized that were not known at the time the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan.

Likewise, information on the species that was not known at the time the recovery plan was finalized may become available. The new information may change the extent that criteria need to be met for recognizing recovery of the species. Recovery of species is a dynamic process requiring adaptive management that may or may not fully follow the guidance provided in a recovery plan.

The following discussion provides a brief review of recovery planning and implementation for *Lepanthes eltoroensis* as well as an analysis of the recovery criteria and goals as they relate to evaluating the status of this orchid. *Lepanthes eltoroensis* was listed as an endangered species in 1991, due to its rarity (Factor E), its restricted distribution (Factor E), forest management practices (Factor A), impacts from hurricane damage (Factor E), and collection (Factor B) (56 FR 60933, November 29, 1991, p. 56 FR 60935). The most important factor affecting *L. eltoroensis* at that time was its limited distribution. Additionally, we concluded at the time that the species' rarity made it vulnerable to impacts from hurricanes, such as unfavorable microclimatic conditions resulting from numerous canopy gaps. Because so few individuals were known to occur, the risk of extinction was considered to be extremely high (56 FR 60933, November 29, 1991, p. 56 FR 60935).

The *Lepanthes eltoroensis* recovery plan was approved on July 15, 1996. The objective of the recovery plan is to provide direction for reversing the decline of this orchid and for restoring the species to a self-sustaining status, thereby permitting eventual removal from the Federal List of Endangered and Threatened Plants (Service 1996, p. 8). However, the recovery plan provides only criteria for reclassifying the species from endangered to threatened (''downlisting''). The specific criteria are: (1) Prepare and implement an agreement between the Service and the USFS concerning the protection of *L. eltoroensis* within EYNF, and (2) establish new populations capable of self-perpetuation within protected areas (Service 1996, p. 8). The plan also includes the following recovery actions intended to address threats to the species:

(1) Prevent further habitat loss and population decline;

(2) Continue to gather information on the species' distribution and abundance;

(3) Conduct research;

(4) Establish new populations; and

(5) Refine recovery criteria.

The following discussion provides specific details for each of these actions and the extent to which the recovery criteria have been met.

*Recovery Action 1: Prevent Further Habitat Loss and Population Decline*

This action has been completed. In the past, the species' primary threat was identified as destruction and modification of habitat associated with forest management practices (*e.g.,* establishment and maintenance of plantations, selective cutting, trail maintenance, and shelter construction; 56 FR 60933, November 29, 1991). As described below under ''Forest Management Practices,'' the best available data indicate that forest management practices are no longer negatively affecting *Lepanthes eltoroensis.* The area where the species is found is within a protected area (EYNF), part of which is the El Toro Wilderness designated in 2005, where the land is managed to preserve its natural conditions and species like *L. eltoroensis* (USFS 2016, p. 32). We expect this wilderness area will remain permanently protected as a nature reserve and be managed for conservation. Additionally, because this area is within a National Forest, the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) requires the USFS to develop management plans, and EYNF has. As noted below, the EYNF plan specifically includes a set of standards and guidelines to protect the natural resources within the El Toro Wilderness.

Moreover, Federal agencies are mandated to carry out programs for the conservation of endangered species under section 7 of the Act to ensure that any action authorized, funded, or carried out by a Federal agency is not

likely to jeopardize the continued existence of a federally listed species. The USFS consults with the Service as necessary to avoid and minimize impacts to listed species and their habitat at EYNF. *L. eltoroensis* shares habitat with other federally listed species (*e.g.,* the endangered plants *Ilex sintenisii* (no common name) and *Ternstroemia luquillensis* (palo colorado), and the threatened elfin-woods warbler (*Setophaga angelae*)), so *L. eltoroensis* will benefit from efforts to conserve their habitat.

*Recovery Action 2: Continue To Gather Information on the Species' Distribution and Abundance*

This action has been completed. Since the species was listed in 1991, several surveys for *Lepanthes eltoroensis* have been conducted. Although these surveys have been done with varying spatial spread and methodology, making the results difficult to compare over time, even partial surveys have found greater numbers of *L. eltoroensis.* Surveys have indicated stable growth rates. While the best available estimate of the metapopulation is 3,000 individuals (Tremblay 2008, p. 90), surveys likely underestimate the species' true abundance, as suitable habitat off the two main trails is dangerous and mostly inaccessible, preventing additional surveys. Surveys of habitat outside traditional population sites may result in additional individuals.

*Recovery Action 3: Conduct Research*

Much research has been completed; however, we continue to conduct research on the species. Information has been collected throughout the years on the distribution and dispersion patterns of *Lepanthes eltoroensis* (Tremblay 1997a, pp. 85–96), variance in floral morphology (Tremblay 1997b, pp. 38–45), and genetic differentiation (Tremblay and Ackerman 2001, pp. 47–62). In 2016, the Service and the Puerto Rico Department of Natural and Environmental Resources (PRDNER) provided funding to researchers at the University to evaluate the current population status of *L. eltoroensis* and model its demographic variation in response to climatic variability (*i.e.,* temperature and relative humidity). This research suggests that *L. eltoroensis* population growth rates are highly dynamic depending on drought conditions (Meléndez-Ackerman et al. 2018, entire). Partners continue analyzing the extent by which these changes may be related to changes in climatic variation in detail by analyzing data from meteorological stations in the region, and they recommend periodic monitoring of *L. eltoroensis'*s population status (Meléndez-Ackerman et al. 2018, p. 10). The Service will address this recommendation as part of the post-delisting monitoring plan (PDM) and will include criteria to determine whether population trends allow for completion of monitoring, or if additional monitoring or a status review is needed. Moreover, the University, in collaboration with the USFS and the Service, developed a habitat model showing that further suitable habitat extends outside traditionally surveyed areas, including areas of Pico El Yunque and Pico del Este (Sparklin 2020, unpublished data). This model is still pending validation in the field. Despite species experts recording direct impacts to *L. eltoroensis* due to Hurricane Maria and high mortality of seedlings following the disturbance, they also recorded at least 16 previously unknown host trees with live plants (new populations), showing the species may be more widespread within its habitat (Hernández-Muñiz et al., accepted for publication, entire).

*Recovery Action 4: Establish New Populations*

This action has not been met but is no longer necessary. At the time of listing, only 140 plants were thought to exist; we now estimate a population size of 3,000 individuals (Tremblay 2008, p. 90). The 2015 5-year status review of *Lepanthes eltoroensis* states that the action to establish new populations is not necessary at this time for the recovery of the species because additional subpopulations and individuals have been found since the species was listed (Service 2015, p. 5). Additionally, relocation of plants from fallen trees onto standing trees following hurricane events was found to be an effective management strategy to improve and maximize survival and reproductive success (Benítez and Tremblay 2003, pp. 67–69). Recent work and habitat modeling also show that further suitable habitat extends outside traditionally surveyed areas, including areas of Pico El Yunque and Pico del Este.

*Recovery Action 5: Refine Recovery Criteria*

This action has not been met but will no longer be necessary. The recovery plan states that as additional information on *Lepanthes eltoroensis* is gathered, it will be necessary to better define, and possibly modify, recovery criteria. Based on the information compiled in the SSA report (Service 2019, entire), this orchid is projected to remain viable over time such that it no longer meets the Act's definition of an endangered or threatened species (see Determination of Status of *Lepanthes eltoroensis,* below).

*Recovery Criterion 1: Prepare and Implement an Agreement Between the Service and the USFS Concerning the Protection of Lepanthes Eltoroensis Within EYNF*

This criterion has been met. Existing populations and the species' habitat are protected by the USFS. This orchid species occurs within the El Toro Wilderness Area where habitat destruction or modification is no longer considered a threat to the species or its habitat. Thus, although there is not a specific agreement between the Service and the USFS concerning the protection of *Lepanthes eltoroensis,* the intent of this criterion—to provide long-term protection for the species—has been met. The implementation of management practices in the forest has improved, no selective cutting is conducted, and the USFS coordinates with the Service to avoid impacts to listed species as part of their management practices. Furthermore, Commonwealth laws and regulations protect the species' habitat, as well as protect the species from collection and removal. There is no evidence that *L. eltoroensis* or its habitat is being negatively impacted by forest management. Due to the high level of protection provided by the wilderness designation and other protections, we have determined that an agreement between the Service and the USFS is no longer necessary for protecting this species. Incidentally, because this species overlaps with other listed species, the USFS will continue to consult on projects that may affect this area.

*Recovery Criterion 2: Establish New Populations Capable of Self-Perpetuation Within Protected Areas*

As stated above under Recovery Action 4, we have found that the action to establish new populations is no longer necessary because additional subpopulations and individuals have been found since the species was listed (Service 2015, p. 5). Further, suitable habitat extends outside traditionally surveyed areas, including areas of Pico El Yunque and Pico del Este. Additionally, relocation of plants is an effective management strategy to improve and maximize survival and reproductive success, as has been demonstrated after hurricane events (Benítez and Tremblay 2003, pp. 67–69).

*Summary*

The recovery plan for *Lepanthes eltoroensis* provided direction for reversing the decline of this species, thereby informing when the species may be delisted. The recovery plan outlined two criteria for reclassifying the species from endangered to threatened: (1) Prepare and implement an agreement between the Service and the USFS concerning the protection of *L. eltoroensis* within EYNF, and (2) establish new populations capable of self-perpetuation within protected areas. These criteria have either been met or are no longer considered necessary. This species is protected by Commonwealth law and regulations and will continue to be should the species no longer require Federal protection, and the species occurs within a protected wilderness area that will remain protected and managed using techniques that are beneficial for this species and co-occurring federally listed species. There is no evidence that *L. eltoroensis* or its habitat is being negatively impacted by forest management activities or will be in the future. Additionally, the designation of wilderness where the species occurs has eliminated the need for an agreement between the Service and the USFS to protect this species. Since the species was listed under the Act and the recovery plan was written, additional plants have been found, additional plants likely exist in areas that are unsuitable for surveying, and the best available information indicates that additional habitat likely exists. Therefore, establishment of new populations is not necessary for recovery of *L. eltoroensis* at this time. Additionally, the five recovery actions intended to address threats to the species have all been either met or determined no longer to be necessary for recovery.

**Regulatory and Analytical Framework**

*Regulatory Framework*

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an ''endangered species'' or a ''threatened species.'' The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an ''endangered species'' or a ''threatened species'' because of any of the following 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 consider these same five factors in reclassifying a species from endangered to threatened and in delisting a species (50 CFR 424.11(c)–(e)).

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 species' expected response, 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 Services 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.

Given the average lifespan of the species (approximately 5 years), a period of 20 to 30 years allows for multiple generations and detection of any population changes. Additionally, the species has been listed for close to 30 years, so we have a baseline to understand how populations have performed in that period, which is a similar length of time as between now and mid-century. Therefore, the ''foreseeable future'' used in this determination is 20 to 30 years, which is the length of time into the future that the Service can reasonably determine that both the future threats and the species' responses to those threats are likely.

*Analytical Framework*

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be reclassified as a threatened species or delisted under the Act. It does, however,

provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2019–0073.

To assess *Lepanthes eltoroensis* viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision. *Lepanthes eltoroensis* was listed as an endangered species in 1991, due to its rarity (Factor E), its restricted distribution (Factor E), forest management practices (Factor A), impacts from hurricane damage (Factor E), and collection (Factor B) (56 FR 60933, November 29, 1991, p. 56 FR 60935). The most important factor affecting *L. eltoroensis* at that time was its limited distribution. Additionally, its rarity made the species vulnerable to impacts from hurricanes, such as unfavorable microclimatic conditions resulting from numerous canopy gaps. Because so few individuals were known to occur, the risk of extinction was considered to be extremely high (56 FR 60933, November 29, 1991, p. 56 FR 60935).

**Summary of Biological Status and Threats**

In this section, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability.

*Forest Management Practices*

At the time of listing (1991), management practices such as establishment and maintenance of plantations, selective cutting, trail maintenance, and shelter construction were considered threats to *Lepanthes eltoroensis* (56 FR 60933, November 29, 1991, p. 56 FR 60935). The recovery plan further indicated that destruction and modification of habitat might be the most significant factors affecting the number of individuals and distribution of the species (Service 1996, p. 5).

Since the species was listed, several laws have been enacted that provide protections to this species. In 1999, Commonwealth Law No. 241 (New Wildlife Law of Puerto Rico or *Nueva Ley de Vida Silvestre de Puerto Rico*) was enacted to protect, conserve, and enhance native and migratory wildlife species (including plants). This law requires authorization from the PRDNER Secretary for any action that may affect the habitat of any species. Furthermore, part of EYNF (including the habitat where *Lepanthes eltoroensis* is currently known to occur) was congressionally designated as the El Toro Wilderness in 2005, to preserve its natural conditions, including species like *L. eltoroensis,* inhabiting the area (Caribbean National Forest Act of 2005 (Pub. L. 109–118); the Wilderness Act (16 U.S.C. 1131 *et seq.*); U.S. Forest Service (USFS) 2016, p. 32). The El Toro Wilderness consists of undeveloped USFS lands and is managed to preserve its natural conditions without any permanent improvements or human habitation (USFS 2016, p. 32). All known populations of *L. eltoroensis* occur within this wilderness area.

Scientists who have conducted research on *Lepanthes eltoroensis* do not consider destruction, curtailment, or modification of this species' habitat to be a factor threatening this species (Ackerman 2007, pers. comm.). In 2019, the USFS finalized a revised land and resources management plan to guide the general direction of EYNF for the next 15 years. This plan specifically includes a set of standards and guidelines to protect the natural resources within the El Toro Wilderness, including listed species. Standards specific to the El Toro Wilderness include no salvaging of timber, no issuing permits for collection of plants or plant material unless for a scientific purpose, no new special-use permits for facilities or occupancy, managing recreation to minimize the number of people on the trails, and no construction of new trails (USFS 2019, pp. 1, 32–35). Standards and guidelines for at-risk (including listed) species detailed in the plan include not allowing collection of orchids unless approved for scientific purposes and making sure forest management activities are consistent with recovery plans (USFS 2019, p. 62). Implementation of management practices in EYNF has also improved; there is no selective cutting, and maintenance is minimal, as both El Toro and Trade Winds trails receive few visitors. Mostly researchers and forest personnel use El Toro and Trade Winds trails; therefore, few human encounters are expected (USFS 2016, p. 32). Additionally, the USFS coordinates with the Service to avoid or minimize impacts to a number of federally listed species (*e.g.,* the endangered plants *Ilex sintenisii* and palo colorado, and the threatened elfin-woods warbler) that co-occur with *L. eltoroensis* as part of their management practices in accordance with section 7 of the Act.

There is no evidence suggesting current forest management practices are negatively affecting the species or its specialized habitat (adequate temperature and moisture regimes, and presence of moss) (Service 2019, p. 24). Furthermore, based on existing laws, we expect EYNF will remain permanently protected as a nature reserve and be managed for conservation. Therefore, we no longer consider forest management practices or destruction and modification of habitat to be threats to the species.

*Hurricanes*

The restricted distribution of *Lepanthes eltoroensis* makes it particularly vulnerable to large-scale disturbances, such as hurricanes and tropical storms, that frequently affect islands of the Caribbean (NOAA 2018, unpaginated). Hurricanes are more frequent in the northeastern quadrant of Puerto Rico, where EYNF is located (White *et al.* 2014, p. 30). Current global climate models are rather poor at

simulating tropical cyclones; however, the Intergovernmental Panel on Climate Change's climate simulations project that the Caribbean will experience a decrease in tropical cyclone frequency, but the most intense events will become more frequent (PRCC 2013, p. 10; Service 2019, p. 56).

Cloud forests, where this species occurs, are much taller than other vegetation and are higher in elevation, making them more exposed and more easily affected by high winds, and they take more time to recover post-disturbance (Hu and Smith 2018, p. 827). Heavy rains and winds associated with tropical storms and hurricanes cause tree defoliation, habitat modification due to trees falling, and landslides (Lugo 2008, p. 368). Surveys in 2018 conducted along El Toro Trail following Hurricane Maria focused on assessing the impacts to the species and its host trees (subpopulations). Nineteen host trees were not found and assumed to be lost due to the hurricane. An additional nine host trees were found knocked down. In total, 641 plants, including seedlings, juveniles, and reproductive and non-reproductive adults, were found; 322 were found on previously marked host trees (including 191 individuals on those host trees that were knocked to the ground), and 319 were new individuals not previously surveyed (Melendez-Ackerman 2018, pers. comm.). Given that *Lepanthes eltoroensis* does not persist on felled or dead trees (Benítez and Tremblay 2003, pp. 67–69), we assume many of these 191 individuals (approximately 30 percent of individuals found) will not survive, resulting in the loss of those individuals from the metapopulation. However, individual plants moved to new host trees do quite well, highlighting the feasibility of relocation to increase the species' long-term viability in the context of severe hurricanes such as Hurricane Maria. University researchers translocated some of these 191 individuals, but because the translocations occurred months after the hurricane, we do not expect survival to be as high as if it had occurred immediately after the hurricane. Furthermore, this species has persisted from past hurricane events without active management of translocating species from felled host trees.

In addition, associated microclimate changes resulting from downed trees and landslides after severe storms (*e.g.,* increased light exposure, reduction in relative humidity) may negatively affect the growth rate of *Lepanthes eltoroensis* populations (Tremblay 2008, pp. 89–90). Following Hurricane Georges in 1998, non-transplanted populations of *L. eltoroensis* had negative growth rates, while groups of plants that were transplanted to better habitats within the forest had positive growth rates (Benitez-Joubert and Tremblay 2003, pp. 67–69). Furthermore, based on data on related species, *L. eltoroensis* growth rates may be negatively affected by excess light from gaps caused by felled trees during hurricanes (Fernandez *et al.* 2003, p. 76).

The inherently low redundancy (the ability of a species to withstand catastrophic events) of *Lepanthes eltoroensis* due to its limited range makes hurricanes and tropical storms a primary risk factor. However, given the observed stable trend from past surveys and recent partial surveys in 2018 (Service 2019, pp. 39, 45–48), it appears that the species has the ability to recover from disturbances like hurricanes Hugo, Georges, Hortense, Irma, and Maria (Service 2019, pp. 51–52). Additionally, relocation has proven to be a viable conservation strategy for this species (Benítez and Tremblay 2003, pp. 67–69). Relocating plants from fallen trees to standing trees following hurricane events results in higher survival of those transplanted individuals. This management strategy can improve and maximize species' survival and reproductive success after hurricane events (Benítez and Tremblay 2003, pp. 67–69; Tremblay 2008, pp. 83–90). Following this recommendation after Hurricane Maria, researchers from the University translocated some *L. eltoroensis* individuals along the El Toro Trail. These individuals are currently being monitored to assess survival. In addition, since *L. eltoroensis* is part of the USFS' ''Plant Species of Conservation Interest of El Yunque'' (USFS 2018, p. 37) and is included in the 2016 revised land and resource management plan that details a management concept focused on conservation, particularly to protect unique ecological resources (USFS 2016, p. 1), the USFS will continue to implement conservation actions, such as habitat protection, enhancement, and relocation of *L. eltoroensis* individuals following hurricanes, as deemed necessary.

*Collection*

Collection for commercial or recreational purposes eliminated one population of *Lepanthes eltoroensis* prior to listing under the Act (56 FR 60933; November 29, 1991). The rarity of the species made the loss of even a few individuals a critical loss to the species as a whole.

The USFS regulations in title 36 of the Code of Federal Regulations at part 261, section 261.9 (36 CFR 261.9) prohibit damaging or removing any plant that is classified as a threatened, endangered, sensitive, rare, or unique species in wilderness areas. Additionally, since the species was listed under the Act in 1991, other laws have been enacted that provide protections to the species from collection or removal. Commonwealth Law No. 241 (New Wildlife Law of Puerto Rico or *Nueva Ley de Vida Silvestre de Puerto Rico*), enacted in 1999, protects, conserves, and enhances native and migratory wildlife species. Specifically, Article 5 of this law prohibits collection and hunting of wildlife species, including plants within the jurisdiction of Puerto Rico, without a permit from the PRDNER Secretary. In 2004, *Lepanthes eltoroensis* was included in the list of protected species of Regulation 6766 (*Reglamento 6766 para Regir el Manejo de las Especies Vulnerables y en Peligro de Extinción en el Estado Libre Asociado de Puerto Rico*), which governs the management of endangered and threatened species within the Commonwealth of Puerto Rico. Article 2.06 of this regulation prohibits collecting, cutting, and removing, among other activities, listed plant individuals within the jurisdiction of Puerto Rico.

*Lepanthes eltoroensis* will likely remain protected under Commonwealth laws and regulations after Federal delisting. Commonwealth Regulation 6766 provides protection to species that are not federally listed or that have been removed from the Federal Lists, and the species will remain protected under the wilderness provisions from the 2016 revised land and resource management plan for EYNF (USFS 2016, entire). According to this plan, any influences by humans on the natural process that take place in the wilderness area will be to protect endangered and threatened species in addition to human life (USFS 2016, p. 33). As such, the standards of the plan include conducting wildlife and plant habitat/population surveys and monitoring in a manner compatible with the goals and objectives of wilderness (USFS 2016, p. 34). Additional protection measures include not issuing forest product permits for collection of plants or plant material in wilderness areas (unless for scientific and educational purposes and approved by the forest biologist/ecologist), and management strategies to design, construct, and maintain trails to the appropriate trail standard in order to meet wilderness standards protections (USFS 2016, p. 34).

Despite the one documented instance of collection, the threat of collection is low, given that few people venture into the El Toro Wilderness (Tremblay 2007, pers. comm.) and that the small size (less than 2 in. (4 cm) tall) and inconspicuousness of this species makes it easy to overlook (Ackerman 2007, pers. comm.; Tremblay 2007, pers. comm.). Additionally, this species is not used for commercial or recreational purposes and is not considered to have ornamental value (Service 2015, p. 8). Despite photos of the species on the internet, there is no direct evidence that the species is in private collections or that it has been advertised for sale. In addition, since early 2017, researchers from the University monitored population trends on all known host trees on a monthly basis, and recorded no evidence of poaching (*e.g.,* unusual missing plants or scars on the trees). Thus, there is no evidence that collection is currently impacting *Lepanthes eltoroensis* (Service 2019, p. 24) or is likely to do so in the future.

*Small Population Size and Low Reproduction*

The smaller the population, the greater the probability that fluctuations in population size from stochastic variation (*e.g.,* reproduction and mortality) will lead to extirpation. There are also genetic concerns with small populations, including reduced availability of compatible mates, genetic drift, and inbreeding depression. Small subpopulations of *Lepanthes eltoroensis* are particularly vulnerable to stochastic events, thus contributing to lower species viability (Service 2019, p. 24).

*Lepanthes eltoroensis* may experience declining growth related to the uneven distribution of individuals among host trees and demographic processes (*e.g.,* reproductive success, survival), which can be negatively influenced by environmental and catastrophic risks (Service 2019, p. 25). Fruit production is limited; therefore, opportunities for establishment are limited. Less than 20 percent of individuals reproduce, and most subpopulations (60 percent of host trees) have fewer than 15 individuals. In addition, the distribution of individuals (seedling, juvenile, and adults) varies enormously among trees and is skewed towards few individuals per tree (Tremblay and Velazquez-Castro 2009, p. 214). Despite small subpopulations of *L. eltoroensis* with limited distribution and naturally limited fruit production, this species has continued to recover even after regular exposure to disturbances. We now estimate the species population to be 3,000 individuals, which is a significant increase from the 140 individuals known at the time of listing (Tremblay 2008, p. 90). This is because surveys have located additional individuals and subpopulations (groups of *L. eltoroensis* on the same host tree), resulting in a much greater estimate of individuals than at the time of listing. Therefore, the species' vulnerability to extinction due to catastrophic events is reduced.

*Genetic Risks*

The main genetic risk factor for the species is low genetic variability. The effective population size (number of individuals in a population that contribute offspring to the next generation) ranges from 3 to 9 percent of the standing population (number of individuals in a population) (Tremblay and Ackerman 2001, entire). In other words, for every 100 adults, maybe 9 will transfer genes to the next generation. In addition, although *Lepanthes eltoroensis* can survive for up to 50 years, most seedlings and juveniles die (Tremblay 2000, p. 264). Therefore, very few individuals are responsible for the majority of seed production, decreasing the genetic diversity as a whole in subpopulations (Meléndez-Ackerman and Tremblay 2017, pp. 5–6). Low genetic diversity may be reflected in reduced genetic and environmental plasticity, and, thus, low ability to adapt to environmental changes. However, *L. eltoroensis* has demonstrated the ability to withstand environmental change; therefore, low genetic diversity does not appear to be affecting the species' viability.

There is evidence of low gene flow in the species. Estimated gene flow in *Lepanthes eltoroensis* is less than two effective migrants per generation (Tremblay and Ackerman 2001, p. 54). This result implies that most mating is among individuals within a host tree, potentially resulting in high inbreeding, low genetic variability, and inbreeding depression (Tremblay and Ackerman 2001, pp. 55–58). If there are high rates of inbreeding, this could lead to inbreeding depression, and could have profound long-term negative impacts to the viability of the species (Service 2019, pp. 28–29). However, the species is likely an obligate cross-pollinated species (Tremblay *et al.* 2006, p. 78), which is a mechanism to reduce inbreeding. Although the effects of potential inbreeding in the future is possible, the species has demonstrated the ability to adapt to changing environmental conditions (*i.e.,* natural disturbances) over time (Service 2019, p. 54). Thus, both low genetic diversity and low gene flow do not appear to be affecting species' viability currently, nor do we believe it will in the foreseeable future.

*Effects of Climate Change*

The average temperatures at EYNF have increased over the past 30 years (Jennings *et al.* 2014, p. 4; Khalyani *et al.* 2016, p. 277). Climate projections indicate a 4.6 to 9 degrees Celsius (°C) (8.2 to 16.2 degrees Fahrenheit (°F)) temperature increase for Puerto Rico from 1960–2099 (Khalyani *et al.* 2016, p. 275). Additionally, projections indicate a decrease in precipitation and acceleration of the hydrological cycles resulting in wet and dry extremes (Jennings *et al.* 2014, p. 4; Cashman *et al.* 2010, pp. 52–54). In one downscaled model, precipitation is projected to decrease faster in wetter regions like the Luquillo Mountains, where EYNF is located, and the central mountains of Puerto Rico (Khalyani *et al.* 2016, p. 274). In contrast, higher elevations may have a buffering effect on declining trends in precipitation (Bowden 2018, pers. comm.; Service 2019, pp. 65–66).

Downscaled modeling for Puerto Rico was based on three Intergovernmental Panel on Climate Change global emissions scenarios from phase 3 of the Coupled Model Intercomparison Project (the CMIP3 data set): Mid-high (A2), mid-low (A1B), and low (B1) as the CMIP5 data set was not available for Puerto Rico at that time (Khalyani *et al.* 2016, p. 267 and 279–280). These scenarios are generally comparable and span the more recent representative concentration pathways (RCP) scenarios from RCP4.5 (B1) to RCP8.5 (A2) (IPCC 2014, p. 57). Under all of these scenarios, emissions increase, precipitation declines, temperature and total dry days increase, and portions of subtropical rain and wet forests (that *Lepanthes eltoroensis* occupies) are lost, while all wet and moist forest types decrease in size in Puerto Rico; the differences in the scenarios depends on the extent of these changes and the timing of when they are predicted to occur (Service 2019, p. 67).

In general, projections show similar patterns of changes in precipitation and drought intensity and extremes, although total changes were greater for the A2 scenario (Khalyani *et al.* 2016, pp. 272–273, 274; Service 2019, pp. 59–60). Under scenarios A2, A1B, and B1, annual precipitation is projected to decrease. Current annual precipitation in Puerto Rico averages 745 to 4,346 mm (29 to 171 in.). However, differences in precipitation between the three scenarios were greater after mid-century, as was uncertainty of species' response to the various scenarios past mid-century (Khalyani *et al.* 2016, p.

274). Before then, decreases in rainfall are expected to be far less; rainfall decreases are expected to be 0.0012 to 0.0032 mm per day per year through 2050 (PRCC 2013, p. 7). Additionally, for all three climate scenarios, significant decreases in precipitation for the northern wet forests (like EYNF) are not predicted until after 2040 (Service 2019, p. 60). Furthermore, the U.S. Geological Survey projection for Puerto Rico predicts an overall drying of the island and a reduction in extreme rainfall occurrence; however, this model suggests higher elevations, like those supporting *L. eltoroensis,* may have a buffering effect on declining trends in precipitation (Bowden 2018, pers. comm.). Therefore, precipitation declines are not likely to occur in the area supporting *L. eltoroensis* during the foreseeable future. On the other hand, drought intensity increased steadily under all three scenarios (Khalyani *et al.* 2016, pp. 274–275). This increase is linear for all three scenarios. Given that the projections for precipitation and drought diverge significantly after midcentury, it is difficult to reasonably determine the species' response to the coming changes.

All three scenarios predict increases in temperature (Khalyani *et al.* 2016, p. 275). However, like with precipitation, projected increases in temperature are not substantial until after 2040. Projections show only a 0.8 °C (1.4 °F) increase by mid-century under all three scenarios. These scenarios differentiate the most from each other in later time intervals (after 2040) (Khalyani *et al.* 2016, pp. 275, 277). Also, we are not aware of any information that indicates these air temperature increases will influence formation of the cloud cover over EYNF in the foreseeable future, which could in turn impact interior temperatures and humidity of the forest where *Lepanthes eltoroensis* is found. The divergence of all scenarios after 2040 makes it difficult to predict the species' likely future condition; therefore, we are relying on species' response 20 to 30 years into the future.

Climatic changes are projected in the life zone distributions in Puerto Rico, although the changes vary by life zone and are predicted to be much more significant after mid-century. Because life zones are derived from climate variables (*e.g.,* precipitation and temperature), general changes in life zone distribution are similar to changes in climatic variables. For example, annual precipitation changes will result in shifts from wet and moist zones to drier zones (Khalyani *et al.* 2016, p. 275), and changes in temperature will result in changes from subtropical to tropical. Under all three scenarios, models show decreasing trends in size for areas currently classified as wet and moist zones, while increasing trends were observed in the size covered by dry zones (Khalyani *et al.* 2016, pp. 275, 279). Therefore, under all scenarios, reduction of the size of areas covered by subtropical rain and wet forests are anticipated. Nonetheless, the loss of wet and moist zones in the northeastern mountain area that supports *Lepanthes eltoroensis* is not predicted to be substantial, and the area is predicted to remain relatively stable until after 2040 (Service 2019 p. 69). This may be due to possible buffering effects of elevation across the island.

This projected shift of the life zones of Puerto Rico from humid to drier is the most important potential risk to *Lepanthes eltoroensis.* This includes changes in relative area and distribution pattern of the life zones, and the disappearance of humid life zones (Khalyani *et al.* 2016, p. 275). Decreased rainfall in northeastern Puerto Rico could cause migration, distribution changes, and potential extirpation of many species that depend on the unique environmental conditions of the rain forest (Weaver and Gould 2013, p. 62). These projections may have direct implications for *L. eltoroensis* because the acreage of the lower montane wet forest life zone it occupies could decrease, resulting in less habitat being available for the species. Epiphytes like *L. eltoroensis* could experience moisture stress due to higher temperatures and less cloud cover with a rising cloud base, affecting their growth and flowering (Nadkarni and Solano 2002, p. 584). Due to its specialized ecological requirements and restricted distributions within the dwarf forest, *L. eltoroensis* could be more adversely impacted by the effects of climate change than other species with wider distribution (*e.g.,* lower elevation species) and greater plasticity, thus reducing its viability. However, predictions of life zone changes are not expected to affect resiliency of *L. eltoroensis* within the foreseeable future (Service 2019, p. 69).

Overall, we anticipate the range of *Lepanthes eltoroensis* could contract due to changes in climatic variables leading to loss of wet and tropical montane habitats. Although changes to precipitation and drought, temperature, life zones, and hurricane severity are expected to occur on Puerto Rico, thereby affecting the species' habitat, they are not predicted to be substantial over the next 20 to 30 year foreseeable future. Modeling shows the divergence in these projections increases substantially after mid-century, making projections beyond 20 to 30 years more uncertain; as a result, the species' response to those changes beyond 30 years into the future is also uncertain (Khalyani et al. 2016, p. 275).

Climate change is a primary risk factor to the species; however, under all climate emission scenarios, *Lepanthes eltoroensis* is projected to remain moderately resilient within the foreseeable future. There is very little projected contraction of the wet and moist forests 30 years into the future. Although increasing catastrophic hurricanes are possible, relocation of plants and appropriate forest management can ameliorate some of these impacts. Overall, the viability of the species is predicted to remain stable despite climate change impacts.

*Cumulative Effects*

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future condition of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

*Summary of Current Condition*

Viability is defined as the ability of the species to sustain populations in the wild over time. To assess the viability of *Lepanthes eltoroensis,* we used the three conservation biology principles of resiliency, representation, and redundancy (Shaffer and Stein 2000, pp. 306–310).

Factors that influence the resiliency of *Lepanthes eltoroensis* include abundance and growth trends within host trees; habitat factors such as elevation, slope, aspect, precipitation, temperature, and canopy cover; and presence of moss, mycorrhizal fungi, and pollinators. Influencing those factors are elements of *L. eltoroensis'*s ecology that determine whether

populations can grow to maximize habitat occupancy, thereby increasing resiliency. Stochastic factors that have the potential to affect *L. eltoroensis* include impacts to its habitat from hurricanes and effects of climate change (*i.e.,* changes in temperature and precipitation regimes). Beneficial factors that influence resiliency include the protected status of the species' habitat, as the known range of the species is entirely within the El Toro Wilderness and, therefore, protected from human-caused habitat loss and collection.

The number of *Lepanthes eltoroensis* individuals is greater than at the time of listing (Tremblay 2008, p. 90), approximately 3,000 individual plants currently. The distribution of *L. eltoroensis* has not been investigated outside of traditional areas (*i.e.,* just off El Toro and Trade Wind trails); however, additional populations may occur within suitable habitat outside El Toro Trail. In fact, additional individuals have been found near, but outside of, El Toro Trail (Tremblay 2008, p. 90). Assuming a metapopulation size of 3,000 individuals and observed stable subpopulations from past surveys (including recent partial surveys in 2018), these numbers indicate that the species has the ability to recover from normal stochastic disturbances; thus, we consider the species to be moderately resilient.

We lack the genetic and ecological diversity data to characterize representation for *Lepanthes eltoroensis.* In the absence of species-specific genetic and ecological diversity information, we typically evaluate representation based on the extent and variability of habitat characteristics across the geographical range. Because the species does not appear to have much physiological flexibility given that it has a rather restricted distribution (cloud forests on ridges), representative units were not delineated for this species. Available data suggest that conditions are present for genetic drift and inbreeding depression (Tremblay 1997a, p. 92). However, the most updated *L. eltoroensis* information shows that the species survived the almost entire deforestation of the lowlands of EYNF (habitat surrounding the known localities of *L. eltoroensis*) and the associated changes in microhabitat conditions, and thus the species has the ability to adapt to changing environmental conditions (*i.e.,* natural disturbances) over time and does not appear to be effected by genetic drift at present. Furthermore, some of the factors that we concluded would reduce representation at the time of listing, such as habitat destruction and collection, are no longer acting as stressors upon the species. Finally, because the population is significantly larger than was known at the time of listing, representation has improved. Redundancy for *Lepanthes eltoroensis* is the total number and resilience of subpopulations and their distribution across the species' range. This species is endemic to EYNF, and it has not been introduced elsewhere. Despite the presence of multiple subpopulations (*i.e.,* host trees), these subpopulations are located within a narrow/restricted range at El Toro Wilderness and are all exposed to similar specific habitat and environmental conditions. Although redundancy is naturally low due to the narrow range that the species inhabits, it has recovered from past natural disturbances (*i.e.,* hurricanes, tropical storms, etc.) and is considered more abundant within its habitat than previously documented, as noted above.

*Projected Future Status*

*Lepanthes eltoroensis* only occurs within the protected EYNF lands where stressors—including forest management practices, urban development surrounding EYNF, and overcollection—are not expected to be present or are expected to remain relatively stable. Because *L. eltoroensis* occurs on protected lands managed by the USFS, it will benefit from their ongoing conservation practices, which include the relocation of plants from fallen host trees after a hurricane, as deemed necessary, to alleviate the negative impacts of these storm events. The effect of genetic drift on the species into the future is unknown, but *L. eltoroensis* has thus far demonstrated the ability to adapt to changing environmental conditions (*i.e.,* natural disturbances) over time (Service 2019, pp. 51–52). The primary stressors affecting the future condition of *L. eltoroensis* are current and ongoing climate change (Meléndez-Ackerman and Tremblay 2017, p. 1) and the associated shifts in rainfall, temperature, and storm intensities. These stressors account for indirect and direct effects at some level to all life stages and across the species' range.

To examine the potential future condition of *Lepanthes eltoroensis,* we used three future scenarios based on climate change predictions for Puerto Rico (Khalyani *et al.* 2016, entire), which used global emission scenarios (mid-high (A2), mid-low (A1B), and low (B1) (Nakicenovic and Swart 2000, entire)) to capture a range of possible scenarios. Our assessment of future viability includes qualitative descriptions of the likely impacts of climate change under the above three scenarios from the literature and is intended to capture the uncertainty in the species' response to climate stressors as well as capture our lack of information on abundance and growth rates relative to each scenario.

Although modeling projects large changes in temperature and precipitation to Puerto Rico through 2100, the divergence in these projections increases substantially after mid-century, making projections beyond 20 to 30 years more uncertain (Khalyani et al. 2016, p. 275). By mid-21st century, Puerto Rico is predicted to be subject to a decrease in rainfall, along with increase drought intensity, particularly in wetter regions like EYNF (Khalyani *et al.* 2016, pp. 265, 274–275). Given the average lifespan of the species (approximately 5 years), a period of 20 to 30 years allows for multiple generations and detection of any population changes.

In summary, changes to precipitation and drought, temperature, and life zones are expected to occur on Puerto Rico, but are not predicted to be substantial within the foreseeable future. Although modeling shows changes to Puerto Rico through 2100, the divergence in these projections increases after mid-century, making projections beyond 20 to 30 years more uncertain; as a result, the species' response beyond 20 to 30 years is also uncertain.

These projected changes may have direct or at least indirect effects on *Lepanthes eltoroensis;* however, viability of the species under all scenarios is expected to remain stable within the foreseeable future (Service 2019, p. 71). Potential direct effects include a reduced number of seedlings as the number of dry days increase, a reduced number of fruits as minimum average temperature increases, and a reduced number of adults as maximum temperature increases (Olaya-Arenas *et al.* 2011, p. 2042). Indirect effects are related to potential changes in moss cover and composition due to temperature and precipitation changes. Data from related species showed that orchid density, growth, and establishment were positively associated with moss species richness (Crain 2012, pp. 15–16; Garcia-Cancel *et al.* 2013, p. 6). Therefore, a change in forest temperature and humidity could affect the establishment and distribution of moss and also *L. eltoroensis* (Service 2019, p. 11).

Persistence of the species through repeated past hurricanes and other storms indicates that the species has the ability to recover and adapt from

disturbances. In fact, many researchers at EYNF have concluded that hurricanes are the main organizing force of the forests (Service 2019, p.71). The forests go through a cycle that averages 60 years, starting with great impact by winds and rain of a hurricane, and then 60 years of regrowth (Lugo 2008, p. 371). In those 60 years of regrowth, complete changes in the species that dominate the landscape can occur. Although the hurricane appears destructive, it can be constructive because it makes the area more productive—it rejuvenates the forest (Service 2019, p. 71). Currently, EYNF is at the initial phase of early succession following Hurricane Maria (2017), which produced severe tree mortality and defoliation, including *Lepanthes eltoroensis* host trees.

In general, we anticipate the range of the species may contract somewhat due to changes in climatic variables, although the loss of wet and moist zones in the northeastern mountain area that supports *Lepanthes eltoroensis* is not predicted to be substantial within the foreseeable future (Service 2019, p. 66). Any range contraction may be exacerbated by an increase in the frequency and severity of hurricanes. However, as the species occurs within EYNF, synergistic negative effects of development and deleterious forest management practices are unlikely threats to the species in the future. *Lepanthes eltoroensis* and its habitat at the EYNF are protected by congressional designation of El Toro Wilderness Area (Forest Plan 2016, p. 32), thus precluding human disturbance. Because the EYNF management plan includes a set of standards and guidelines to protect the natural resources within the El Toro Wilderness, including co-occurring federally listed species (*e.g., Ilex sintenisii* and palo colorado) (Service 2019, pp. 1, 32–35), the Service anticipates continued implementation of conservation and management practices to improve the habitat of all species within the area, including actions to mitigate hurricane impacts.

To summarize the future viability of *Lepanthes eltoroensis,* resiliency is projected to remain moderate through at least the next 20 to 30 years under all future scenarios. As mentioned above, very little contraction of the wet and moist forests is predicted within this timeframe. Although increasing catastrophic hurricanes are possible, relocation of plants can ameliorate some of these impacts. Redundancy is expected to remain stable under all scenarios for the next 20 to 30 years. However, *Lepanthes eltoroensis* has persisted through catastrophic events in the past, and we expect it to remain viable within the foreseeable future. Because the species has a rather restricted distribution, representative units were not delineated for this species. The current condition of low genetic and environmental diversity, and little breadth to rely on if some plants are lost, is expected to continue under all scenarios, at least through the next 20 to 30 years. Available data suggest that conditions are present for genetic drift and inbreeding. However, *Lepanthes eltoroensis* has demonstrated the ability to adapt to changing environmental conditions (*i.e.,* natural disturbances) over time and does not appear to be affected by genetic drift.

**Summary of Comments and Recommendations**

In the proposed rule published on March 10, 2020 (85 FR 13844), we requested that all interested parties submit written comments on the proposed delisting of *Lepanthes eltoroensis* and the draft post-delisting monitoring (PDM) plan by May 11, 2020. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal and plan. A newspaper notice inviting general public comments was published in Primera Hora (major local newspaper) and also announced using online and social media sources. We did not receive any requests for a public hearing.

*Peer Review*

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and the Service's August 22, 2016, Director's Memo on the Peer Review Process, we sought the expert opinions of five appropriate and independent specialists regarding the SSA report for *Lepanthes eltoroensis.* These peer reviewers have expertise in *L. eltoroensis* or similar epiphytic orchid species' biology or habitat, or climate change. We received comments from one of the five peer reviewers. The purpose of peer review is to ensure that our decisions are based on scientifically sound data, assumptions, and analyses.

We reviewed all comments received from the peer reviewer for substantive issues and new information contained in the *Lepanthes eltoroensis* SSA report. The peer reviewer generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the final SSA report. We revised the final SSA, which supports this final rule, as appropriate, in response to the comments and suggestions we received from the peer reviewer.

*Public Comments*

We reviewed all public comments for substantive issues and new information regarding the species. Substantive comments we received during the comment period are addressed below and, where appropriate, are incorporated directly into this final rule.

(1) *Comment:* One commenter indicated that the species should not be delisted because the population growth rate is highly variable, and the population is generally decreasing; further, seedling individuals are slowly decreasing, and plant mortality is slowly increasing following Hurricane Maria in September 2017.

*Our Response:* The commenter did not provide substantial new information to support this comment. In addition, we do not have evidence indicating the species shows a long-term (over the past three decades) decreasing trend. In fact, the overall number of individuals detected has increased since the time of listing (1991) from 140 to approximately 3,000 individuals estimated along the Trade Winds Trail (Tremblay 2008, p. 90). Further populations (host trees) are expected to occur within suitable habitat just outside this trail in areas that have not yet been surveyed due to the inaccessibility and steepness of the terrain (Tremblay 2008, p. 90). Thus, the species' viability is supported by information showing an increased number of individuals over the past three decades.

The species' mean lifespan is approximately 5.2 years, with an average annual mortality rate of 10 percent; however, this mortality rate varies greatly among life stages, with increased survival of older stages (adults) (Tremblay 2000, p. 265; Rosa-Fuentes and Tremblay 2007, p. 207). This relatively short lifespan coupled with a relatively high mortality rate indicates that the species probably would have gone extinct were it not currently viable.

A seasonal decrease in number of seedlings may also be associated with transition to more mature stages (juveniles and non-reproductive adults). As expected, a higher mortality of seedlings (80.3 percent) was found 6 months after Hurricane Maria due to the changes in canopy structure and associated microhabitat conditions that promoted drought stress (Melendez-Ackerman et al. 2019, p. 4). However, an overall survival rate for monitored plants was found to be approximately

80 percent (Melendez-Ackerman et al. 2019, p. 5). In addition, in August 2018, at least 1,105 live individuals (768 in the El Toro trail and 337 in a portion of the Trade Winds trail) distributed across 61 phorophytes (host trees) were recorded after Hurricane Maria. While the surveyed number (1,105 individuals) is less than the estimated 3,000 population size, this is the result of monitoring of accessible habitat following the hurricane, and there is a consensus among experts that the species' distribution extends beyond the surveyed areas.

(2) *Comment:* Several commenters indicated that the species should not be delisted based on the impacts from hurricanes, including expected higher frequency and intensity of hurricanes associated with climate change. Commenters indicated that the species' habitat is still recovering from the impacts of Hurricane Maria in 2017, as shown by low percentage of forest cover (34 percent in June 2019), increase in higher monthly averages in minimum temperatures, and lower number of moss species. One commenter expressed that, in general, the occurrences of *Lepanthes* spp. are correlated with high levels of moss cover, moss cover seems to be important for orchid growth and survival, and moss cover was affected by the hurricane. The commenter also mentioned that the *L. eltoroensis* population is still at pre-hurricane levels, having only added 100 individuals during surveys conducted post-hurricane and comparing with the numbers obtained as part of the assessments commissioned by the Service prior to Hurricane Maria.

*Our Response:* As recognized in the proposed rule and the SSA report, we acknowledge the impacts from hurricanes and their expected higher frequency due to climate change. *Lepanthes eltoroensis* is endemic to El Toro and Trade Winds trails at El Yunque National Forest (EYNF), an area subject to recurrent hurricanes and storms. The continued presence and viability of the species through repeated past hurricanes (*e.g.,* Hugo, Hortense, Georges, Irma, and Maria) shows the species has the ability to overcome and adapt from such disturbances. In fact, the species survived the peak in deforestation in Puerto Rico, including deforestation of the lowlands of EYNF, and the impact of Hurricane San Felipe II in 1928, the only category 5 hurricane on record to directly impact Puerto Rico. Thus, the species has been exposed to extreme natural disturbance and landscape modification via forest cover loss and moss reduction at EYNF that likely resulted in changes in microhabitat conditions (*i.e.,* higher temperature and evapotranspiration) caused by these disturbances and stochastic events.

As addressed in the *Lepanthes eltoroensis* SSA report (Service 2019, p. 73), hurricanes are the main organizing force of the forests of EYNF, and the forests goes through a cycle that averages 60 years (Lugo 2008, p. 383). The cycle starts with great impact from winds and rain of a hurricane followed by 60 years of regrowth. Thus, *L. eltoroensis* is naturally adapted to hurricane disturbance, and we expected it to remain viable in habitats subject to such intermittent disturbances (*e.g.,* hurricanes) (Crain et al. 2019, p. 89).

Direct impacts to *L. eltoroensis* occurred from Hurricane Maria, and seedlings experienced high mortality following the disturbance (Melendez-Ackerman 2019, p. 4; Hernández-Muñiz et al., accepted for publication, entire). However, 16 previously unknown host trees (new populations) were recorded during post-hurricane surveys, indicating the species may be more widespread within its habitat (Melendez-Ackerman 2019, p. 2; Hernández-Muñiz et al., accepted for publication, entire).

Despite the species' apparent preference for caimitillo (*Micropholis garciniifolia*) (endemic to the higher elevations of EYNF) as a host tree, there are records of *L. eltoroensis* growing on palma de sierra (*Prestoea acuminata*) and helecho arboreo (*Cyathea arborea*), which are fast-growing species with widespread distributions within *L. eltoroensis* habitat whose abundance is favored by hurricanes. Therefore, the availability of potential host trees for *L. eltoroensis* should not be a limiting factor following hurricanes.

(3) *Comment:* One commenter indicated that the species should not be delisted because there is a need of crucial data on the species' reproductive biology (*e.g.,* breeding system and pollinators), the feasibility of propagation, habitat requirements, and the ecology of the species.

*Our Response:* We are required to make our determinations based on the best available scientific and commercial data at the time the determination is made. A need for further research on a species is not necessarily relevant to the question of whether the species meets the definition of an ''endangered species'' or a ''threatened species.'' Regardless of the mechanism for pollination of the species, reproduction and recruitment of *Lepanthes eltoroensis* is occurring, evidenced by the presence of different size classes. The reportedly low fruit set of the species is not atypical of orchids of this type; thus, we do not consider it a concern for the future viability of the species. Finally, delisting the species does not prevent continued research on the species.

(4) *Comment:* One commenter indicated that the species should not be delisted because its habitat has not been completely surveyed, and there is a need to gather information on the species' distribution and abundance.

*Our Response:* As stated above, we make our status determinations based on the best available scientific and commercial data at the time the determination is made. Our analysis of the best commercial and scientific information available indicates that *Lepanthes eltoroensis* does not meet the Act's definitions of an ''endangered species'' or a ''threatened species.'' Despite the limited range of this species, we determined that stressors either have not occurred, have been ameliorated, or are not expected to occur to the extent anticipated at the time of listing in 1991.

We acknowledge that the species has not been extensively surveyed outside the El Toro and Trade Winds trails due to the areas' remoteness and steep topography (Service 2019, p. 19). However, new occupied host trees were identified after Hurricane Maria, indicating the species extends beyond previously known areas. Additionally, species experts from University of Puerto Rico (University), in collaboration with the USFS and the Service, developed a habitat model using environmental variables such as elevation, aspect, and a topographic position index and heat load (Sparklin 2020, unpublished data). Although this model is pending field validation, the result from this analysis shows that further suitable habitat extends outside traditionally surveyed areas, including areas of Pico El Yunque and Pico del Este (Sparklin 2020, unpublished data).

For these reasons, current population numbers are likely underestimated as the species is expected to be more widespread particularly considering the pristine status of its habitat. Further, delisting the species does not prevent future study or habitat surveys.

(5) *Comment:* We received public comments indicating that the species should not be delisted because the Service has not completed the recovery actions stated in the species recovery plan. Two commenters indicated that the species should not be delisted because an agreement between the Service and the USFS concerning the protection of *Lepanthes eltoroensis* within the El Yunque National Forest property has not been prepared and

implemented (Recovery Objective #1). In addition, two commenters indicated that the species should not be delisted because new populations (the number of which should be determined following the appropriate studies) capable of self-perpetuation have not been established within protected areas (Recovery Objective #2).

*Our Response:* Recovery plans provide roadmaps to species recovery, but are not required in order to achieve recovery of a species or to evaluate it for delisting. In addition, recovery plans are also nonbinding documents that rely on voluntary participation from landowners, land managers, and other recovery partners. A determination of whether a valid, extant species should be delisted is made solely on the question of whether it meets the Act's definitions of an ''endangered species'' or a ''threatened species.'' We have determined that *Lepanthes eltoroensis* does not.

As addressed under Recovery and Recovery Plan Implementation in the proposed rule (85 FR 13844, pp. 13852–13854), we consider the need for an agreement between the Service and USFS as obsolete. At the time the recovery plan was approved in 1996, this agreement was deemed as needed because the potential of habitat modification due to forest management practices (*e.g.,* establishment and maintenance of plantations, selective cutting, trail maintenance, and shelter construction). However, the habitat where *L. eltoroensis* is found was congressionally designated as El Toro Wilderness Area in 2005. This designation provides stronger protection for *L. eltoroensis* than a conservation agreement would. The designated wilderness area is managed to retain primitive character without any permanent improvements or human habitation, and to preserve its natural conditions (USFS 2016, pp. 32–35). Currently, trails across *L. eltoroensis* habitat are used mostly by researchers and forest personnel; few human encounters are expected on these trails (USFS 2016, pp. 32–35), and no evidence indicates that forest management practices are negatively impacting the species.

Also addressed under Recovery and Recovery Plan Implementation in the proposed rule (85 FR 13844, pp. 13852–13854), the second recovery criterion regarding establishment of new populations capable of self-perpetuation within protected areas is no longer necessary because additional populations (host trees) and individuals have been found since the species was listed. In addition, new host trees have been found as part of increased survey efforts. Moreover, recent habitat modeling indicates suitable habitat extends beyond traditional surveyed areas; thus, population numbers are expected to be higher.

(6) *Comment:* Several commenters indicated that the species should not be delisted because it is still threatened by potential overutilization for commercial, recreational, scientific, or educational purposes (Factor B); disease or predation (Factor C); the inadequacy of existing regulatory mechanisms (Factor D); and other natural or manmade factors (Factor E). Particularly, one commenter highlighted the potential impacts due to overutilization for commercial and recreational purposes and that the species may be in private collections. One commenter indicated that several *Lepanthes* species may exist ex-situ in private collections in the Netherlands, provided a photo, and suggested further investigation to potential poaching is needed.

*Our Response:* The commenters did not provide substantial new information indicating that Factors B, C, D, and E are threats to *Lepanthes eltoroensis.* We are proactively collaborating with the species' experts, and no specific information on these issues have been brought to our attention or highlighted as a threat. As for the potential poaching of the species, the known populations and prime habitat occur on Federal lands congressionally designated as the El Toro Wilderness to preserve its natural conditions, including *L. eltoroensis.* Standards specific to the El Toro Wilderness include no salvaging of timber, no issuing permits for collection of plants or plant material unless for a scientific purpose, no new special-use permits for facilities or occupancy, managing recreation to minimize the number of people on the trails, and no construction of new trails. In addition, the known populations of *L. eltoroensis* occur on remote areas with little human traffic, and are subject to surveillance by USFS law enforcement officers. The Netherlands record is from a photo, and it is not clear that it is actually from a private collection. There is no evidence indicating that *Lepanthes eltoroensis* has been advertised for sale or that it is in private collections. In addition, there is no historical or current evidence of poaching of the species.

**Determination of Status of Lepanthes Eltoroensis**

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations (50 CFR part 424), set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. For a more detailed discussion on the factors considered when determining whether a species meets the definition of an endangered species or a threatened species and our analysis on how we determine the foreseeable future in making these decisions, please see Regulatory and Analytical Framework.

*Status Throughout All of Its Range*

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we note that more individuals are known to occur than at the time of listing. Additionally, the best metapopulation estimate of 3,000 individuals is likely an underestimate, as not all potential habitat has been surveyed. Despite the effects of a small population size, continued limited distribution, and conditions rife for low gene flow (Factor E), the species has adapted to changing environmental conditions. Threats from incompatible forest management practices (Factor A) and collection (Factor B) have been addressed by regulatory changes, and are not anticipated to negatively affect *Lepanthes eltoroensis* in the future. Although hurricanes (Factor E) have the potential to negatively impact growth rates and survival of *L. eltoroensis,* stable subpopulations, even after recent severe hurricanes, indicate this species recovers from these natural disturbances. The greatest threat to the future of *L. eltoroensis* comes from the effects of climate change (Factor E); however, while changes to precipitation and drought, temperature, and life zones are expected to occur on Puerto Rico, they are not predicted to be substantial within the foreseeable future, and the viability of the species is expected to remain stable. We anticipate small population dynamics (small population size and restricted gene flow) (Factor E) will continue to be a concern, as conditions for genetic drift are present, nonetheless *L. eltoroensis* has demonstrated the ability to adapt to changing environmental conditions over time at population levels lower than they are currently or projected to be in the future.

The species was originally listed as an endangered species due to its rarity, restricted distribution, specialized habitat, and vulnerability to habitat

destruction or modification, as well as because of collection for commercial/recreational uses. We find that these threats are no longer affecting the status of the species, as they have been minimized or eliminated. Surveys over the past 18 years, including following two strong hurricanes in 2018, documented more individuals than known at the time of listing, and the population appears to be relatively stable. The habitat at EYNF, where the species occurs, is a designated wilderness area and managed for its natural conditions; we conclude that this legal protection has addressed the threat of habitat modification or destruction to the degree that it is no longer a threat to the species continued existence. In addition, collection is prohibited under Puerto Rican law and USFS regulations, and there is no indication this is a current threat to the species. Stability of the species through repeated past strong hurricanes indicates the species has the ability to coexist with disturbances. While a narrow endemic, the species has continued to be viable across its historical range with all life stages represented and in good health. While projections show increasing temperatures and decreasing precipitation over time into the future, projected impacts to the species' habitat (*e.g.,* life zone changes) are not expected to be significant within the foreseeable future (Service 2019, p. 69). Recent, yet unpublished, downscaled climate modeling (Bowden 2018, pers. comm.) indicates that higher elevation areas, like those supporting *L. eltoroensis,* may be buffered from the more generally predicted level of precipitation changes. This species has also demonstrated the ability to adapt to changes in its environment. Since the species was listed, warming temperatures have been documented and precipitation levels have decreased, yet the species has demonstrated resiliency. Additionally, following strong hurricanes that affected the species' habitat, abundance has remained stable, with all age classes represented and in good health. While suitable habitat conditions for the species may contract some over the foreseeable future, the species is likely to continue to maintain close to current levels of resiliency, redundancy, and representation. We conclude that there are no existing or potential threats that, either alone or in combination with others (*i.e.,* forest management practices, climate change, and hurricane damage), are likely to cause the species' viability to decline. Thus, after assessing the best available information, we determine that *L. eltoroensis* is not in danger of extinction now nor likely to become so within the foreseeable future throughout all of its range.

*Status Throughout a Significant Portion of Its Range*

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. Having determined that *Lepanthes eltoroensis* is not in danger of extinction or likely to become so within the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so within the foreseeable future in a significant portion of its range—that is, whether there is any portion of the species' range for which it is true that both (1) the portion is significant; and (2) the species is in danger of extinction now or likely to become so in the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In undertaking this analysis for *Lepanthes eltoroensis,* we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered or threatened. *Lepanthes eltoroensis* is a narrow endemic that functions as a single, contiguous population (with a metapopulation structure) and occurs within a very small area (EYNF, Puerto Rico). Thus, there is no biologically meaningful way to break this limited range into portions, and the threats that the species faces affect the species throughout its entire range. This means that no portions of the species' range have a different status from its rangewide status. Therefore, no portion of the species' range can provide a basis for determining that the species is in danger of extinction now or likely to become so in the foreseeable future in a significant portion of its range, and we find the species is not in danger of extinction now or likely to become so in the foreseeable future in any significant portion of its range. This is consistent with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

*Determination of Status*

Our review of the best available scientific and commercial data indicates that *Lepanthes eltoroensis* does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we are removing *Lepanthes eltoroensis* from the Federal List of Endangered and Threatened Plants.

**Effects of This Rule**

This final rule revises 50 CFR 17.12(h) to remove *Lepanthes eltoroensis* from the Federal List of Endangered and Threatened Plants. Therefore, revision of the species' recovery plan is not necessary. On the effective date of this rule (see **DATES**, above), the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply to this species. Federal agencies will no longer be required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect *L. eltoroensis.* There is no critical habitat designated for this species.

**Post-Delisting Monitoring**

Section 4(g)(1) of the Act requires us to monitor for not less than 5 years the status of all species that are delisted due to recovery. Post-delisting monitoring (PDM) refers to activities undertaken to verify that a species delisted due to recovery remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of PDM is to monitor the species to ensure that its status does not deteriorate, and if a decline is detected, to take measures to halt the decline so that proposing it as an endangered or threatened species is not again needed. If at any time during the monitoring period data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing. At the conclusion of the monitoring period, we will review all available information to determine if relisting, the continuation of monitoring, or the termination of monitoring is appropriate.

Section 4(g) of the Act explicitly requires that we cooperate with the States in development and implementation of PDM programs. However, we remain ultimately responsible for compliance with section 4(g) and, therefore, must remain actively

engaged in all phases of PDM. We also seek active participation of other entities that are expected to assume responsibilities for the species' conservation after delisting. The Service has coordinated with PRDNER and USFS on the PDM.

We prepared a PDM plan for *Lepanthes eltoroensis* (Service 2019, entire). We published a notice of availability of a draft PDM plan with the proposed delisting rule (85 FR 13844; March 10, 2020), and we did not receive any comments on the plan. Therefore, we consider the plan final. The plan is designed to detect substantial declines in the species, with reasonable certainty and precision, or an increase in threats. The plan:

(1) Summarizes the species' status at the time of proposed delisting;

(2) Defines thresholds or triggers for potential monitoring outcomes and conclusions;

(3) Lays out frequency and duration of monitoring;

(4) Articulates monitoring methods, including sampling considerations;

(5) Outlines data compilation and reporting procedures and responsibilities; and

(6) Provides a PDM implementation schedule, funding, and responsible parties.

The final PDM plan is available at *https://ecos.fws.gov* and at *http://www.regulations.gov* in Docket No. FWS–R4–ES–2019–0073. It is our intent to work with our partners towards maintaining the recovered status of *Lepanthes eltoroensis.*

## Required Determinations

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with determining a species' listing status under the Endangered Species Act. In an October 25, 1983, notice in the **Federal Register** (48 FR 49244), we outlined our reasons for this determination, which included a compelling recommendation from the Council on Environmental Quality that we cease preparing environmental assessments or environmental impact statements for listing decisions.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no Tribal interests affected by this rule.

## References Cited

A complete list of references cited in this rulemaking is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2019–0073 and upon request from the Caribbean Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

## Authors

The primary authors of this rule are the staff members of the Service's Species Assessment Team and the Caribbean Ecological Services Field Office.

## List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

## Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

### § 17.12 [Amended]

■ 2. Amend § 17.12(h) by removing the entry for ''*Lepanthes eltoroensis*'' under FLOWERING PLANTS from the List of Endangered and Threatened Plants.

**Martha Williams,**

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

[FR Doc. 2021–12528 Filed 6–15–21; 8:45 am]

**BILLING CODE 4333–15–P**

# Proposed Rules

Federal Register
Vol. 86, No. 114
Wednesday, June 16, 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

### 6 CFR Part 37

**[Docket No. DHS–2020–0028]**

## Public Meeting and Extension of Comment Period on Request for Information: Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Mobile Driver's Licenses

**AGENCY:** Office of Strategy, Policy and Plans, Department of Homeland Security (DHS).

**ACTION:** Notification of public meeting and request for comments; extension of comment period.

**SUMMARY:** On April 19, 2021, the Department of Homeland Security (DHS) published a request for information (RFI) soliciting comments from the public to help inform a potential rulemaking that would amend DHS regulations to set the minimum technical requirements and security standards for mobile or digital driver's licenses/identification cards (collectively ''mobile driver's licenses'' or ''mDLs'') to enable federal agencies to accept mDLs for official purposes under the REAL ID Act and regulation. In advance of the closing date for comments submitted in response to the RFI, DHS will hold a virtual public meeting on June 30, 2021, to answer questions regarding the RFI and to provide an additional forum for comments by stakeholders and other interested persons regarding the issues identified in the RFI. DHS is also extending the comment period for the RFI by 42 calendar days to provide an additional period for comments to be submitted after the public meeting.

**DATES:** *Virtual public meeting:* The virtual public meeting will be held on Tuesday, June 30, 2021, from 10:00 a.m. to 1:00 p.m. (EDT). Requests to attend the meeting and request for accommodations for a disability must be received by June 25, 2021.

*Comments on request for information:* The comment period on the RFI is extended by 42 days, from June 18, 2021, to July 30, 2021.

**ADDRESSES:** The virtual public meeting requires pre-registration. To register, interested persons must visit the following website: *https://app.smartsheet.com/b/form/1a98299bbeeb4e6f988ede29f36d222b* and provide the required information. Virtual attendance information will be provided after registration. Participants and persons unable to join the meeting may submit comments electronically through the Federal eRulemaking portal at *http://www.regulations.gov.* Use the Search bar to find the docket, using docket number DHS–2020–0028. See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

**FOR FURTHER INFORMATION CONTACT:** Steve Yonkers, Director, REAL ID Program, Office of Strategy, Policy, and Plans, United States Department of Homeland Security, Washington, DC 20528, *Steve.Yonkers@hq.dhs.gov,* (202) 447–3274, or George Petersen, Senior Program Manager, Enrollment Services and Vetting Programs, Transportation Security Administration, Springfield, VA 20598, *George.Petersen@tsa.dhs.gov,* (571) 227–2215. Please do not submit comments to these addresses.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

DHS invites interested persons to comment on the RFI by submitting written comments, data, or views. See **ADDRESSES** above for information on where to submit comments. Except as stated below, all comments received may be posted without change to *http://www.regulations.gov,* including any personal information you have provided.

### Commenter Instructions

DHS continues to invite comments on any aspect of RFI through the extended comment period, and welcomes any additional comments and information that would promote an understanding of the broader implications of acceptance of mobile or digital driver's licenses by Federal agencies for official purposes. This request includes comments relating to the economic, privacy, security, environmental, energy, or federalism impacts that might result from a future rulemaking based on input received as a result of the RFI. In addition, DHS included specific questions in the RFI immediately following the discussion of the relevant issues. *See* Section IV of the RFI at 86 FR 20325–26. DHS asks that each commenter include the identifying number of the specific question(s) to which they are responding. Each comment should also explain the commenter's interest in the RFI and how their comments should inform DHS's consideration of the relevant issues.

DHS asks that commenters provide as much information as possible, including any supporting research, evidence, or data. In some areas, DHS requests very specific information. Whenever possible, please provide citations and copies of any relevant studies or reports on which you rely, as well as any additional data which supports your comment. It is also helpful to explain the basis and reasoning underlying your comment. Although responses to all questions are preferable, DHS recognizes that providing detailed comments on every question could be burdensome and will consider all comments, regardless of whether the response is complete.

### Handling of Confidential or Proprietary Information and SSI Submitted in Public Comments

Do not submit comments that include trade secrets, confidential business information, or sensitive security information [1] (SSI) to the public regulatory docket. Please submit such comments separately from other comments on the RFI. Commenters submitting this type of information should contact the individual in the **FOR FURTHER INFORMATION CONTACT** section for specific instructions.

DHS will not place comments containing SSI, confidential business information, or trade secrets in the public docket and will handle them in accordance with applicable safeguards

[1] ''Sensitive Security Information'' or ''SSI'' is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

and restrictions on access. DHS will hold documents containing SSI, confidential business information, or trade secrets in a separate file to which the public does not have access and place a note in the public docket explaining that commenters have submitted such documents. DHS may include a redacted version of the comment in the public docket. If an individual requests to examine or copy information that is not in the public docket, DHS will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and DHS's FOIA regulation found in 6 CFR part 5.

**Background**

The REAL ID Act of 2005 and the DHS implementing regulation set minimum requirements for state-issued driver's licenses and identification cards accepted by federal agencies for official purposes, which the Act defines as accessing federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.[2] The REAL ID Modernization Act, enacted in December 2020, clarifies that the REAL ID Act applies to mobile or digital driver's licenses that have been issued in accordance with regulations prescribed by the Secretary.[3]

On April 19, 2021, DHS published an RFI to solicit comments from the public to help inform a potential rulemaking that would amend 6 CFR part 37 to set the minimum technical requirements and security standards for mDLs to enable federal agencies to accept mDLs for official purposes under the REAL ID Act and regulation.[4] On April 27, 2021, DHS announced a 19-month extension of the REAL ID Act full enforcement date due to circumstances resulting from the COVID–19 pandemic.[5] Beginning on May 3, 2023, federal agencies may only accept driver's licenses and state-issued identification documents for official purposes that are REAL ID-compliant and issued by a REAL ID compliant state.[6]

**Specific Issues for Discussion**

The RFI lists several issues for which DHS seeks information and comment.[7] At the public meeting, DHS seeks to focus on several key areas in particular that DHS must explore with respect to a potential rulemaking to amend the REAL ID regulation. The comments at the meeting need not be limited to these issues, and DHS invites comments on other aspects of mDLs. The key issues are:

(1) Security risks arising from the use of mDLs by federal agencies for official purposes, solutions to mitigate such risks, and digital security features to provide security that enable mDLs to provide security that is commensurate to that of physical security features for physical driver's licenses.

(2) Privacy concerns arising from mDL transactions, and digital security features to protect the privacy of information submitted in mDL transactions.

(3) Concerns arising from the adoption, in a proposed regulation, of certain requirements set forth in industry standard ISO/IEC 18013–5; proposals to address issues that are important to mDL transactional security but that are not included, undefined, or ambiguous in the standard, which if addressed by a federal regulatory framework, would improve interoperability and security; initial and ongoing costs to a stakeholder to implement this standard.

(4) Digital security features and other protocols to enable secure provisioning of mDLs; estimated costs for a state Department of Motor Vehicles (DMV) to implement in-person or remote provisioning

(5) Advantages and disadvantages of mobile device hardware- and software-based security architecture to store mDL data on a mobile device.

(6) Proposals regarding appropriate periods for mDLs to synchronize with their issuing database; estimated costs for a stakeholder to implement such synchronization periods

(7) The appropriateness of Public Key Infrastructure to provide the level of privacy and security sufficient to implement a secure and trusted operating environment; estimated costs for a DMV or Federal agency to implement necessary IT security infrastructure.

(8) Estimated costs and savings, to an individual to obtain an mDL, including time and effort required to obtain an mDL, and fees charged by a DMV.

For more information on the mDLs and the issues for which DHS solicits comments, please see the RFI.[8]

**Participation at the Meeting**

Due to the limits of the virtual platform, meeting capacity is limited, and slots will be filled on a first-come, first served basis. Members of the public interested in attending must register no later than June 25, 2021. When registration is confirmed, registrants will be provided the virtual meeting information/teleconference call-in number and passcode. Registrants are responsible for paying associated costs (long-distance charges, cell phone fees, internet connectivity) for participation.

The meeting is expected to begin at 10:00 a.m. and end by 1:00 p.m. (EDT). Following an introduction by DHS, members of the public will be invited to ask clarifying questions or present their views.

Anyone wishing to present an oral statement must indicate their request in their registration. DHS will schedule these requests on a first come, first served basis to the extent permitted by time. All participants may address statements, questions, comments during the virtual meeting's specified ''open floor'' times, in the order they present themselves to the moderator. To accommodate as many questions as possible, the amount of time allocated to each speaker may be limited by DHS.

**Public Meeting Procedures**

DHS will use the following procedures to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who are registered. DHS will make every effort to accommodate all persons who wish to participate, but admission will be subject to virtual meeting capacity constraints. The meeting may adjourn early if DHS determines it is appropriate, *e.g.,* scheduled presentations are complete and there appear to be no remaining questions from meeting participants.

(2) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, will be limited to a 5-minute statement and scheduled on a first-come, first-served basis.

(3) Any speaker prevented by time constraints from speaking will be

[2] The REAL ID Act of 2005—Title II of division B of the FY05 Emergency Supplemental Appropriations Act, as amended, Public Law 109–13, 49 U.S.C. 30301 note; REAL ID Driver's Licenses and Identification Cards, 6 CFR part 37.

[3] REAL ID Modernization Act, Title X, Div. U of the Consolidated Appropriations Act, 2021, Public Law 116–260 (Dec. 27, 2020).

[4] *See* ''Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Mobile Driver's Licenses'' (86 FR 20320).

[5] Press Release, DHS Announces Extension of REAL ID Full Enforcement Deadline (April 27, 2021), available at: *https://www.dhs.gov/real-id/news/2021/04/27/dhs-announces-extension-real-id-full-enforcement-deadline.* On May 3, 2021, DHS published an Interim Final Rule to amend the deadlines in 6 CFR 37.5 to effectuate the extension. *See* 86 FR 23237 (May 3, 2021).

[6] *See* 6 CFR 37.5(b) and (c), as amended by 86 FR at 23240.

[7] *See* 86 FR at 20325–26.

[8] 86 FR at 20325–26.

encouraged to submit written remarks to the docket, which will be made part of the record.

(4) For information on services for individuals with disabilities or to request technical assistance at the meeting, please email *DHSMeetingSupport@icf.com* by June 25, 2021.

(5) Representatives of DHS will preside over the meeting.

(6) The meeting will be recorded by a court reporter. The transcript will be made available at *www.regulations.gov.* Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly.

(7) Statements made by DHS representatives are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a DHS representative is not intended to be, and should not be construed as, DHS's official position.

(8) The meeting is designed to invite public views and gather additional information. No individual will be subject to cross-examination by any other participant; however, DHS representatives may ask questions to clarify a statement.

**Kelli Ann Burriesci,**

*Acting Under Secretary, Office of Strategy, Policy, and Plans, United States Department of Homeland Security.*

[FR Doc. 2021–12616 Filed 6–15–21; 8:45 am]

**BILLING CODE 9110–9M–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2021–0501; Project Identifier MCAI–2021–00168–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 supersede Airworthiness Directive (AD) 2019–20–10, which applies to certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–20–10 requires repetitive rototest inspections of the holes at the door stop fittings for any cracking, and corrective actions if necessary. Since the FAA issued AD 2019–20–10, a clarification of a certain compliance time for the rototest inspection was added. This proposed AD would clarify a certain compliance time and continue to require repetitive rototest inspections of the holes at the door stop fittings for any cracking, and repair if necessary, 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 August 2, 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;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0501.

### 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–2021–0501; 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:** Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@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–2021–0501; Project Identifier MCAI–2021–00168–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 Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@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**

The FAA issued AD 2019–20–10, Amendment 39–19763 (84 FR 61526, November 13, 2019) (AD 2019–20–10), which applies to certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–20–10 requires repetitive rototest inspections of the holes at the door stop fittings for any cracking, and corrective actions if necessary. The FAA issued AD 2019–20–10 to address cracking of the web holes at the door stop fittings, which could affect the structural integrity of the airplane.

**Actions Since AD 2019–20–10 Was Issued**

Since the FAA issued AD 2019–20–10, a clarification of the initial compliance time for the rototest inspection, related to the incorporation of certain airworthiness limitations (ALI) tasks has been added. Certain airworthiness limitations (ALI) tasks referenced in EASA AD 2018–0289, dated December 21, 2018 (which corresponds to FAA AD 2019–20–10) were initially applicable only to the left- and right-hand door stop fitting holes at position 1 or 7 at fuselage frame (FR)20, and, at a later stage, were made applicable to the left- and right-hand door stop fitting holes at position 1 or 7 at fuselage FR16. An operator reported a possible misunderstanding of the compliance time in EASA AD 2018–0289. Therefore, EASA determined that the compliance time language related to accomplishment of those ALI tasks needed to be clarified.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0289R1, dated February 10, 2021 (EASA AD 2018–0289R1) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. EASA AD 2018–0289R1 supersedes EASA AD 2018–0289 (which corresponds to FAA AD 2019–20–10). Model A320–215 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 cracks were detected on FR16 and FR20 web holes and passenger door intercostal fitting holes at the door stop fitting locations. The FAA is proposing this AD to address cracking of the web holes at the door stop fittings, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

**Explanation of Retained Requirements**

Although this proposed AD does not explicitly restate the requirements of AD 2019–20–10, this proposed AD would retain all of the requirements of AD 2019–20–10. Those requirements are referenced in EASA AD 2018–0289R1, which, in turn, is referenced in paragraph (g) of this proposed AD.

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

EASA AD 2018–0289R1 describes procedures for repetitive rototest inspections of the holes at the door stop fittings for any cracking and repair if necessary. 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 pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in EASA AD 2018–0289R1 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 2018–0289R1 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2018–0289R1 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 2018–0289R1 that is required for compliance with EASA AD 2018–0289R1 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0501 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 1,528 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2019–20–10 (1,229 airplanes). | 33 work-hours × $85 per hour = $2,805 | $0 | $2,805 | $3,447,345 |
| Inspections | 33 work-hours × 85 per hour = 2,805 | 0 | 2,805 | 4,286,040 |

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 51 work-hours × $85 per hour = $4,335 | $350 | $4,685 |

**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:

■ a. Removing Airworthiness Directive (AD) 2019–20–10, Amendment 39–19763 (84 FR 61526, November 13, 2019), and

■ b. Adding the following new AD:

**Airbus SAS:** Docket No. FAA–2021–0501; Project Identifier MCAI–2021–00168–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by August 2, 2021.

**(b) Affected ADs**

This AD replaces AD 2019–20–10, Amendment 39–19763 (84 FR 61526, November 13, 2019) (AD 2019–20–10).

**(c) Applicability**

This AD applies to Airbus SAS airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2018–0289R1, dated February 10, 2021 (EASA AD 2018–0289R1).

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

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

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Reason**

This AD was prompted by a report that cracks were detected on frame (FR)16 and FR20 web holes and passenger door intercostal fitting holes at the door stop fitting locations, and a determination that a certain compliance time needs to be clarified. The FAA is issuing this AD to address cracking of the web holes at the door stop fittings, which could affect the structural integrity of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0289R1.

**(h) Exceptions to EASA AD 2018–0289R1**

(1) Where EASA AD 2018–0289R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2018–0289R1 does not apply to this AD.

(3) Where Table 1 of EASA AD 2018–0289R1 refers to a compliance time ''after 31 May 2017,'' this AD requires using a compliance time after May 31, 2018 (the effective date of task 531103–01–1 in ''ALS Part 2 rev. 6'').

(4) Where paragraphs (3) and (6) of EASA AD 2018–0289R1 refers to actions that have been done ''in accordance with Airbus Repair Design Approval Sheet (RDAS),'' this AD includes repair done ''in accordance with 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.''

**(i) 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 (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2019–20–10 are approved as AMOCs for the corresponding provisions of EASA AD 2018–0289R1 that are required by paragraph (g) of this AD, except for those airplanes having a compliance time specified in ''Table 1:

Inspection Thresholds,'' Row B, of EASA AD 2018–0289R1.

(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*): For any service information referenced in EASA AD 2018–0289R1 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(j) Related Information**

(1) For information about EASA AD 2018–0289R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* 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–2021–0501.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

Issued on June 10, 2021.

**Lance T. Gant,**

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

[FR Doc. 2021–12603 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0463; Project Identifier 2018–SW–050–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for Leonardo S.p.a. (Leonardo) Model AB139 and AW139 helicopters with certain main rotor blades MRB installed. This proposed AD was prompted by a report of an in-flight loss of a main rotor blade (MRB) tip cap. This proposed AD would require inspecting the MRB tip cap for disbonding. 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 August 2, 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 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

### Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0463 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, the European Aviation Safety Agency (now European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Bang Nguyen, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4973; email *bang.nguyen@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–2021–0463; Project Identifier 2018–SW–050–AD'' 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 Bang Nguyen, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4973; email *bang.nguyen@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**

On January 22, 2018, the FAA issued AD 2018–03–01, Amendment 39–19174 (83 FR 4136, January 30, 2018) (AD 2018–03–01) for Agusta S.p.A. (now Leonardo) Model AB139 and AW139 helicopters with MRB part number (P/N) 3G6210A00131 with a serial number (S/N) 3615, 3634, 3667, or 3729 installed. AD 2018–03–01 requires inspecting the MRB tip cap for disbonding and was prompted by EASA AD 2017–0175–E, dated September 13, 2017 (EASA AD 2017–0175–E), issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advised of an in-flight loss of an MRB tip cap on an AW139 helicopter where the pilot was able to safely land the helicopter. EASA further advised that an investigation determined the cause as incorrect bonding procedures used during production on MRB P/N 3G6210A00131, S/N 3615, 3634, 3667, and 3729. According to EASA, this condition could result in loss of an MRB tip cap, increased pilot workload, and reduced control of the helicopter. To address this unsafe condition, EASA AD 2017–0175–E requires a one-time inspection of the affected MRB tip caps within 5 hours and replacing the affected MRBs within 10 hours if not replaced as a result of the inspection. EASA AD 2017–0175–E also prohibits installing the affected MRBs on a helicopter. AD 2018–03–01 requires the same corrective actions.

**Actions Since AD 2018–03–01 Was Issued**

After the FAA issued AD 2018–03–01, EASA issued EASA AD 2018–0130, dated June 18, 2018 (EASA AD 2018–0130), to correct the same unsafe condition for Leonardo AB139 and AW139 helicopters with additional serial-numbered MRBs installed. EASA advises that further investigations after EASA AD 2017–0175–E was issued determined that another batch of P/N 3G6210A00131 MRBs may have been subject to the incorrect bonding procedure, but to a less critical extent. EASA AD 2018–0130, which neither revises nor supersedes EASA AD 2017–0175–E, applies to the following serial-numbered MRBs with less than 1,200 flight hours: 2709, 3558, 3624, 3707, 3790, 3486, 3561, 3625, 3717, 3795, 3488, 3569, 3626, 3720, 3798, 3495, 3570, 3627, 3725, 3803, 3500, 3574, 3628, 3726, 3807, 3501, 3575, 3633, 3734, 3812, 3502, 3582, 3636, 3735, 3822, 3503, 3583, 3638, 3738, 3824, 3508, 3586, 3642, 3739, 3825, 3510, 3590, 3648, 3741, 3827, 3513, 3592, 3649, 3743, 3831, 3520, 3595, 3650, 3744, 3832, 3527, 3597, 3651, 3745, 3838, 3528, 3599, 3657, 3753, 3841, 3529, 3602, 3665, 3754, 3842, 3531, 3603, 3672, 3761, 3847, 3536, 3605, 3682, 3766, 3850, 3539, 3609, 3684, 3770, 3851, 3544, 3612, 3686, 3771, 3852, 3549, 3613, 3690, 3777, 3853, 3551, 3616, 3691, 3783, 3854, 3556, 3620, 3695, 3788, 3855, 3557, 3622, 3696, and 3789.

Accordingly, EASA AD 2018–0130 requires within 50 flight hours (FH) and thereafter at intervals not to exceed 50 FH, tap inspecting the MRB for disbonding. If there is disbonding within permitted limits, EASA AD 2018–0130 requires tap inspecting the disbonded area within 10 FH and thereafter at intervals not to exceed 10 FH. If disbonding that exceeds the permitted limits is found during any inspection, EASA AD 2018–0130 requires replacing the part. EASA AD 2018–0130 also prohibits installing the affected part unless it is a serviceable part and includes a terminating action for the repetitive inspections, which is accumulation of 1,200 FH by an affected part without findings of disbonded area, or findings of disbonded area within the limits specified in Annex A of Leonardo Helicopters Alert Service Bulletin No. 139–520, dated April 26, 2018 (ASB 139–520).

**FAA's Determination**

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

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

The FAA reviewed ASB 139–520. This service information specifies procedures for repetitively inspecting the tip cap on a certain batch of MRBs for disbonding using a tap test and replacing the MRB if disbonding is not within permitted limits.

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.

**Proposed AD Requirements in This NPRM**

This proposed AD would require, for helicopters with affected MRBs with less than 1,200 total hours time-in-service (TIS) installed, within 50 hours TIS, tap inspecting each MRB tip cap for disbonding using a tap hammer or equivalent. If there is no disbonding, tap inspecting the MRB tip cap at intervals not to exceed 50 hours TIS would be required. If there is any disbonding that does not exceed the specified limits in ASB 139–520, tap inspecting the MRB would be required at intervals not to exceed 10 hours TIS. If there is any disbonding that exceeds the specified limits in ASB 139–520, removing the MRB from service would be required before further flight. The accumulation of 1,200 total hours TIS on the affected part without findings of any disbonded area or with findings of any disbonded area that is within the permitted limits in Annex A of ASB 139–520 would constitute terminating action for the proposed repetitive inspections. This proposed AD would also prohibit installing any MRB that is identified in the applicability section on any helicopter.

**Differences Between This Proposed AD and the EASA AD**

EASA AD 2018–0130 allows replacing an affected part with a serviceable part, which is marked with the letter ''R'' (repaired tip cap) as the last digit of the serial number, as a terminating action for the repetitive inspections specified in that AD, whereas this proposed AD would not.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 114 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Tap inspecting an MRB tip cap would require 1 work-hour, for a cost per helicopter of $85 per inspection cycle for a total U.S. fleet cost of $9,690. Replacing 1 MRB, if required, would take 4 work-hours, and required parts would cost $141,725, for a total cost of $142,065 per MRB.

The FAA has included all known costs in its cost estimate. According to

the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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, 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:

**Leonardo S.p.a.:** Docket No. FAA–2021–0463; Project Identifier 2018–SW–050–AD.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by August 2, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, with a main rotor blade (MRB) that has less than 1,200 total hours time-in-service (TIS) and has part number 3G6210A00131 with any serial number listed in Table 1 of Leonardo Helicopters Alert Service Bulletin No. 139–520, dated April 26, 2018 (ASB 139–520), installed.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a report of disbonding of an MRB tip cap, which if not detected and corrected, could result in loss of the MRB tip cap, severe vibrations, and subsequent loss of control of the helicopter.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 50 hours TIS after the effective date of this AD, using a tap hammer or equivalent, tap inspect each MRB tip cap for disbonding in the area depicted in Figure 1 of ASB 139–520.

(i) If there is no disbonding, tap inspect each MRB tip cap as required by paragraph (g)(1) of this AD at intervals not to exceed 50 hours TIS.

(ii) If there is any disbonding that does not exceed the limits specified in Annex A, paragraphs 2.3 and 2.4 of ASB 139–520, tap inspect the MRB tip cap as required by paragraph (g)(1) of this AD at intervals not to exceed 10 hours TIS.

(iii) If there is any disbonding that exceeds the limits specified in Annex A, paragraphs 2.3 and 2.4 of ASB 139–520, remove the MRB from service before further flight.

(2) Accumulation of 1,200 total hours TIS on the affected part without findings of any disbonded area or with findings of any disbonded area that is within the permitted limits specified in Annex A, paragraphs 2.3 and 2.4 of ASB 139–520, constitutes terminating action for the repetitive inspections required by paragraphs (g)(1)(i) and (ii) of this AD.

(3) As of effective date of this AD, do not install any MRB that is identified in paragraph (c) of this AD on any helicopter.

**(h) Alternative Methods of Compliance (AMOCs)**

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

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

**(i) Related Information**

(1) For more information about this AD, contact Bang Nguyen, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–4973; email *bang.nguyen@faa.gov.*

(2) For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency (EASA) AD 2018–0130, dated June 18, 2018. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–0463.

Issued on June 9, 2021.

**Ross Landes,**

*Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–12515 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2021–0496; Project Identifier MCAI–2020–00393–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters and Airbus Helicopters Deutschland GmbH (AHD) Helicopters

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for Airbus Helicopters Model AS332C, AS332C1, AS332L, AS332L1, AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350D, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, AS–365N2, AS 365 N3, EC120B, EC130B4, EC130T2, EC 155B, EC155B1, SA–365N, and SA–365N1 helicopters; and Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, MBB–BK117 C–2, and MBB–BK117 D–2 helicopters. This proposed AD was prompted by failure of an Emergency Flotation System (EFS) float compartment to inflate during maintenance of the EFS. This proposed AD would require inspecting certain EFSs and depending on the results, marking certain parts or removing certain parts from service, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). 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 August 2, 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 is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0496.

### 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–2021–0496; 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. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email *9-avs-nyaco-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–2021–0496; Project Identifier MCAI–2020–00393–R'' 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 proposal.

### 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 Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0064, dated March 19, 2020 (EASA AD 2020–0064), to correct an unsafe condition for Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Aerospatiale Model EC 120 B, EC 175 B, AS 332 C, AS 332 C1, AS 332 L, AS 332 L1, AS 350 B, AS 350 B1, AS 350 B2, AS 350 BA, AS 350 BB, AS 350 B3, AS 350 D, EC 130 B4, EC 130 T2, AS 355 E, AS 355 F, AS 355 F1, AS 355 F2, AS 355 N, AS 355 NP, SA 365 N, SA 365 N1, AS 365 N2, AS 365 N3, EC 155 B, and EC 155 B1 helicopters. EASA AD 2020–0064 also corrects an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH; and Airbus Helicopters Inc., formerly American Eurocopter LLC, Eurocopter España S.A. Model MBB–BK117 C–2, MBB–BK117 D–2, EC 135 P1, EC 135 P2, EC 135 P2+, EC 135 P3, EC 135 T1, EC 135 T2, EC 135 T2+, EC 135 T3, EC 635 P2+, EC 635 P3, EC 635 T1, EC 635 T2+, and EC 635 T3 helicopters. Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters are not certificated by the FAA and are not included on the U.S. type certificate data sheet except where the U.S. type certificate data sheet explains that the

Model EC635T2+ helicopter having serial number 0858 was converted from Model EC635T2+ to Model EC135T2+; this proposed AD therefore does not include Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters in the applicability.

This proposed AD was prompted by failure of an EFS float compartment to inflate during maintenance of the EFS. The FAA is proposing this AD to address a blocked float supply hose. The unsafe condition, if not addressed, could result in partial inflation of an EFS float during an emergency landing on water and subsequently preventing a timely egress from the helicopter, which could result in injury to helicopter occupants. See EASA AD 2020–0064 for additional background information.

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

EASA AD 2020–0064 specifies inspecting certain EFSs and depending on the results, marking a float supply hose with a green dot with indelible ink if the float supply hose passes an inspection, replacing the float supply hose with a serviceable float supply hose, or replacing an affected EFS with a serviceable EFS. EASA AD 2020–0064 also prohibits installing a float supply hose unless it passes the inspection and is marked.

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**

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in EASA AD 2020–0064. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0064, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA 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 2020–0064 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0064 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 2020–0064 that is required for compliance with EASA AD 2020–0064 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0496 after the FAA final rule is published.

**Differences Between This Proposed AD and the EASA AD**

EASA AD 2020–0064 applies to Airbus Helicopters Model EC120B, EC175B, AS332C, AS332C1, AS332L, AS332L1, AS350B, AS350B1, AS350B2, AS350BA, AS350BB, AS350B3, AS350D, EC130B4, EC130T2, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, SA–365N, SA–365N1, AS–365N2, AS 365 N3, EC155 B, and EC155B1 helicopters and Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2, MBB–BK 117 D–2, EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, EC635 P2+, EC635P3, EC635T1, EC635T2+, and EC635T3 helicopters, whereas this proposed AD would not include Model AS350BB, EC175B, EC635P2+, EC635P3, EC635T1, EC635T2+, and EC635T3 helicopters because these models are not FAA type-certificated. Where the service information referenced in EASA AD 2020–0064 requires certain compliance times depending on whether the helicopter is operated over water, this proposed AD would require compliance within 100 hours time-in-service (TIS) instead. Where the service information referenced in EASA AD 2020–0064 specifies ''work must be performed on the helicopter by the operator,'' this proposed AD would require that the work be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D. Where some of the service information referenced in EASA AD 2020–0064 specifies replacing or removing an affected hose that fails the inspection, this proposed AD would require removing the hose from service instead. Where some of the service information referenced in EASA AD 2020–0064 specifies to discard certain parts, this proposed AD would require removing those parts from service instead. Where some of the service information referenced in EASA AD 2020–0064 specifies to return the EFS to the Safran Aerosystems network or clogged hoses to Safran Aerosystems Services, this proposed AD would not include those requirements. Where the service information referenced in EASA AD 2020–0064 specifies to submit certain information to the manufacturer, this proposed AD does not include that requirement.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 1,900 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Inspecting the EFS would take up to about 8 work-hours for an estimated cost of up to $680 per helicopter and $1,292,000 for the U.S. fleet.

Replacing an EFS hose would take about 1 work-hour and parts cost between $500 and $2,000 per hose, and up to $11,000 for a set of float supply hoses, for an estimated cost of up to $11,085 per helicopter.

**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 Helicopters and Airbus Helicopters Deutschland GmbH (AHD):** Docket No. FAA–2021–0496; Project Identifier MCAI–2020–00393–R.

**(a) Comments Due Date**

The FAA must receive comments by August 2, 2021.

**(b) Affected Airworthiness Directives (ADs)**

None.

**(c) Applicability**

This AD applies to the following helicopters, certificated in any category, with an affected part as defined in European Union Aviation Safety Agency (EASA) AD 2020–0064, dated March 19, 2020 (EASA AD 2020–0064), installed:

(1) Airbus Helicopters Model AS332C, AS332C1, AS332L, AS332L1, AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350D, AS355E, AS355F, AS355F1, AS355F2, AS355N, AS355NP, AS–365N2, AS 365 N3, EC120B, EC130B4, EC130T2, EC 155B, EC155B1, SA–365N, and SA–365N1 helicopters, and

**Note 1 to paragraph (c)(1):** Helicopters with an AS350B3e designation are Model AS350B3 helicopters.

(2) Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, MBB–BK117 C–2, and MBB–BK117 D–2 helicopters.

**Note 2 to paragraph (c)(2):** Helicopters with an EC135P3H designation are Model EC135P3 helicopters. Helicopters with an EC135T3H designation are Model EC135T3 helicopters. Helicopters with an MBB–BK117 C–2e designation are Model MBB–BK117 C–2 helicopters.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by failure of an Emergency Flotation System (EFS) float compartment to inflate during maintenance of the EFS. The FAA is issuing this AD to address a blocked float supply hose. The unsafe condition, if not addressed, could result in partial inflation of an EFS float during an emergency landing on water and subsequently preventing a timely egress from the helicopter, which could result in injury to helicopter occupants.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0064.

**(h) Exceptions to EASA AD 2020–0064**

(1) Where EASA AD 2020–0064 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of the EASA AD requires inspecting each affected part within the compliance time defined in section 1.E of the applicable ASB, this AD requires inspecting each affected part within 100 hours time-in-service (TIS) after the effective date of this AD.

(3) Where the service information referenced in paragraph (1) of EASA AD 2020–0064 specifies that ''the work must be performed on the helicopter by the operator,'' this AD requires that the work be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D.

(4) Where the service information referenced in EASA AD 2020–0064 specifies replacing or removing an affected hose that fails the inspection, this AD requires removing the hose from service.

(5) Where the service information referenced in EASA AD 2020–0064 specifies to discard certain parts, this AD requires removing those parts from service.

(6) Where the service information referenced in EASA AD 2020–0064 specifies returning the EFS to the Safran Aerosystems network for compliance or returning clogged hoses to Safran Aerosystems Services, this AD does not include those requirements.

(7) The ''Remarks'' section of EASA AD 2020–0064 does not apply to this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2020–0064 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to Manager, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-AVS-AIR-730-AMOC@faa.gov.*

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

**(k) Related Information**

(1) For EASA AD 2020–0064, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. 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–2021–0496.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

Issued on June 9, 2021.

**Ross Landes,**

*Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–12517 Filed 6–15–21; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Docket No. FAA–2021–0426; Airspace Docket No. 21–AWP–14]**

**RIN 2120–AA66**

## Proposed Amendment and Removal of Class E Airspace; South Lake Tahoe, CA

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

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

**SUMMARY:** This action proposes to modify the Class E airspace, designated as a surface area, at Lake Tahoe Airport, South Lake Tahoe, CA. This action also proposes to remove the Class E airspace designated as an extension to a Class D or Class E surface area and modify the Class E airspace extending upward from 700 feet above the surface. Also, this action proposes two administrative updates to the Class E2's text header. This action would ensure the safety and management of instrument flight rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before August 2, 2021.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0426; Airspace Docket No. 21–AWP–14, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

**FOR FURTHER INFORMATION CONTACT:** Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify the Class E airspace at Lake Tahoe Airport, South Lake Tahoe, CA, to support IFR operations at the airport.

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0426; Airspace Docket No. 21–AWP–14''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

### Availability and Summary of Documents for Incorporation by Reference

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

### The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by modifying the Class E airspace, designated as a surface area, at Lake Tahoe Airport, South Lake Tahoe, CA.

To properly contain IFR aircraft in the terminal environment, the radius of this airspace area should be increased from 4.3 miles to 5 miles.

This action also proposes to remove the Class E airspace designated as an extension to a Class D or Class E surface area. This airspace is no longer needed to contain IFR aircraft descending below 1,000 feet above the surface.

This action also proposes to modify the Class E airspace extending upward from 700 feet above the surface. This airspace is designed to contain IFR departure to 1,200 feet above the surface and IFR arrivals descending below 1,500 feet above the surface. To properly contain aircraft conducting the LDA RWY 18 approach, the extension north of the airport should be increased from 9.8 miles to 17.5 miles.

This action also proposes two administrative updates to the Class E2's text header. On the second line of the text header, the airport name should be updated to ''Lake Tahoe Airport'', to match the FAA database. On the third

line of the text header, the airport's geographic coordinates should be updated to ''lat. 38°53′38″ N, long. 119°59′44″ W'', to match the FAA database.

Class E2, E4, and E5 airspace designations are published in paragraphs 6002, 6004, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial, and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

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

*Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.*

* * * * *

**AWP CA E2 South Lake Tahoe, CA [Amended]**

Lake Tahoe Airport, CA
(Lat. 38°53′38″ N, long. 119°59′43″ W)

That airspace extending upward from the surface within a 5-mile radius of the airport.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*

* * * * *

**AWP CA E4 South Lake Tahoe, CA [Removed]**

South Lake Tahoe Airport, CA
(Lat. 38°53′38″ N, long. 119°59′43″ W)

*Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or more above the Surface of the Earth.*

* * * * *

**AWP CA E5 South Lake Tahoe, CA [Amended]**

Lake Tahoe Airport, CA
(Lat. 38°53′38″ N, long. 119°59′43″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Lake Tahoe Airport and within 1.9 miles each side of the 008° bearing from the airport extending from the 6-mile radius to 17.5 miles north of the airport.

Issued in Des Moines, Washington, on June 10, 2021.

**B.G. Chew,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2021–12601 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

**[Docket Number USCG–2021–0327]**

**RIN 1625–AA00**

## Safety Zone; Patapsco River, Baltimore, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Patapsco River. This action is necessary to provide for the safety of life on these navigable waters near the Francis Scott Key (I–695) Bridge, Baltimore, MD. This temporary safety zone is intended to restrict vessel traffic on the Patapsco River from September 1, 2021, through November 17, 2021, while work crews install power transmission lines crossing over the river. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region 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 July 16, 2021.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0327 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Mr. Ron Houck, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
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 May 12, 2021, Baltimore Gas and Electric Company (BGE) provided the Coast Guard with details concerning activities associated with the installation of two new overhead power transmission lines crossing over the Patapsco River, from the vicinity of the Hawkins Point terminal Station on the west side of the Patapsco River to a location just north of Sollers Point Terminal Station on the east side of the Patapsco River, to be conducted from September 1, 2021, through November 17, 2021. BGE's 11-week work schedule includes both primary and alternate workdays on Mondays through Fridays, with no work scheduled on weekends. The activities for wire stringing and the installation of the associated hardware for the project requires the use of a helicopter. The new overhead line segment will be supported by new steel monopole towers at eight locations, five of which will be in the Patapsco River. These in-water towers will range in height from 126 feet to 397 feet above the Patapsco River and will support two 230kV transmission circuits. Work will be done above and across the Patapsco River, on and between the steel towers located at approximate positions 39°12′46.87″ N, 076°32′14.05″ W; 39°12′58.56″ N, 076°31′58.74″ W; 39°13′13.79″ N, 076°31′38.79″ W; 39°13′26.61″ N, 076°31′21.98″ W; and 39°13′39.43″ N, 076°31′05.18″ W (NAD 1983), and those towers and the terminal stations located on shore. The span lengths between the in-water towers will range from 373 feet to 2,200 feet. The tallest towers and the high wire tensions used to support the wires in the 2,200 foot span that crosses the Fort McHenry Channel in Baltimore Harbor will be at a height of no less than 231 feet above the water. This installation process requires the temporary closure of the navigation channel near the Francis Scott Key (I–695) Bridge and the temporary closure of other portions of the Patapsco River nearby, including on multiple days during the stated installation period. A safety zone is proposed within the immediate vicinity of the power transmission line crossing. Hazards from the installation of overhead power transmission lines include low-hanging or falling ropes and cables, helicopter rotor downwash and noise, dangerous projectiles, and or other debris. The COTP Maryland-National Capital Region has determined that potential safety hazards associated with overhead power transmission line installation work would be a concern for anyone transiting the Patapsco River.

The purpose of this rule is to protect persons, vessels, and the marine environment on the navigable waters of the Patapsco River during the installation of overhead power transmission lines crossing over the river. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

## III. Discussion of Proposed Rule

The COTP is proposing to establish a temporary safety zone on a portion of the Patapsco River from September 1, 2021, through November 17, 2021, to be enforced while BGE installs overhead power transmission lines over the river. BGE reports its work crews will need to access the navigation channel and other portions of the Patapsco River near the Francis Scott Key (I–695) Bridge as outlined in the following sequence of activities for each of two circuits. The safety zone would be enforced during the times described below for each activity.

*A. Installation of Circuit 2345*

1. *Activity #1: Fly the ropes into blocks.* September 1, 2021, (alternate date September 7, 2021) and September 2, 2021, (alternate date September 8, 2021). On those dates, helicopter flights will be conducted to fly-in two rope spans. A full river closure is required for both flights. The first river closure would occur from 9 a.m. to 10:30 a.m. After this period, the helicopter will fly back to the staging area to re-fuel and prepare for the next rope pull and the river would open to vessel traffic. The second river closure would occur from 1 p.m. to 2:30 p.m. The river would close for the helicopter to complete the second pull.

2. *Activity #2: Preparation to pull conductor.* No activities requiring closure of navigation channel and other portions of the Patapsco River are planned from September 9, 2021 through September 12, 2021. On those dates, pull equipment will be set up at designated land-based locations.

3. *Activity #3: Pull and clip in conductor and cable.* September 13, 2021, (alternate date September 15, 2021), September 20, 2021, (alternate date September 22, 2021), September 24, 2021, (alternate date September 28, 2021), and September 27, 2021, (alternate date September 29, 2021). On September 13, 2021, September 20, 2021, and, September 24, 2021, equipment pulling operations will be conducted to pull the hardline across the river using the rope that were previously strung and the conductor pair across the river using the hardline. A full river closure is required for each pull. The first closure would occur from 9 a.m. to 10:30 a.m. After this period, the conductor reels will be re-set and prepared for the next pull, and the river would open to vessel traffic. The second closure would occur from 1 p.m. to 2:30 p.m. The river would close for the conductor reels to complete the second pull. On September 27, 2021, a full river closure is required for one pull. This closure would occur from 9 a.m. to 10:30 a.m.

4. *Activity #4: Install dampers, spacers, and marker balls.* October 5, 2021, (alternate date October 7, 2021), October 6, 2021, (alternate date October 8, 2021), October 7, 2021 (alternate date October 11, 2021), October 8, 2021, (alternate date October 12, 2021), and October 11, 2021, (alternate date October 13, 2021). On these dates, helicopter flights will be conducted each day to transport on-board helicopter lineman to install 30 conductor spacers each between Tower 1 and Tower 2, and between Tower 2 and Tower 3, 39 conductor spacers between Tower 3 and Tower 4 and 33 conductor spacers between Tower 4 and Tower 5, and 33 conductor spacers each between Tower 5 and Tower 6, and between Tower 6 and Tower 7. A partial river closure is required for all six flights on October 5, 2021. Partial river closures would occur between Tower 1 and Tower 2 from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 1 and Tower 2 would open to vessel traffic. Partial river closures would occur between Tower 2 and Tower 3 from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 2 and Tower 3 would open to vessel traffic for the remainder of the day. A navigation channel closure is required for all morning flights on October 6, 2021. Navigation channel closures would occur between Tower 3 and Tower 4 from 6 a.m. to 7 a.m., from 7:30 a.m. to 8:30 a.m., from 9 a.m. to 10 a.m., and from 10:30 a.m. to 11:30 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 3 and Tower 4 would open to vessel traffic. A partial river closure is required for all afternoon flights on October 6, 2021. Partial river closures would occur between Tower 4

and Tower 5 from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 4 and Tower 5 would open to vessel traffic for the remainder of the day. A partial river closure is required for all six flights on October 7, 2021. Partial river closures would occur between Tower 5 and Tower 6 from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 5 and Tower 6 would open to vessel traffic. Partial river closures would occur between Tower 6 and Tower 7 from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 6 and Tower 7 would open to vessel traffic for the remainder of the day. A partial river closure is required for eight flights, and a channel closure is required for six flights, on October 8, 2021. Partial river closures would occur between Tower 1 and Tower 2 from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 1 and Tower 2 would open to vessel traffic. Partial river closures would occur between Tower 2 and Tower 3 from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 2 and Tower 3 would open to vessel traffic. Navigation channel closures would occur between Tower 3 and Tower 4 from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 3 and Tower 4 would open to vessel traffic for the remainder of the day. A partial river closure is required for all 12 flights on October 11, 2021. Partial river closures would occur between Tower 4 and Tower 5 from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 4 and Tower 5 would open to vessel traffic. Partial river closures would occur between Tower 5 and Tower 6 from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 5 and Tower 6 would open to vessel traffic. Partial river closures would occur between Tower 6 and Tower 7 from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., and from 4 p.m. to 4:30 p.m., and from 5 p.m. to 5:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 6 and Tower 7 would open to vessel traffic for the remainder of the day.

Dates of no scheduled activities requiring closure of navigation channel and other portions of the Patapsco River during the installation of Circuit 2345: September 3rd, September 4th, September 5th, September 6th, September 9th, September 10th, September 11th, September 12th, September 14th, September 16th, September 17th, September 18th, September 19th, September 21st, September 23rd, September 25th, September 26th, September 30th, October 1st, October 2nd, October 3rd, October 9th, and October 10th. On October 4, 2021, (alternate date October 6, 2021), specifically, helicopter flights will be conducted to transport personnel and equipment to the tower locations for workers to install dampers.

*B. Installation of Circuit 2344*

1. *Activity #1: Fly the ropes into blocks.* October 12, 2021, (alternate date October 14, 2021) and October 13, 2021, (alternate date October 15, 2021). On those dates, helicopter flights will be conducted to fly-in two rope spans. A full river closure is required for both flights. The first river closure would occur from 9 a.m. to 10:30 a.m. After this period, the helicopter will fly back to the staging area to re-fuel and prepare for the next rope pull and the river would open to vessel traffic. The second river closure would occur from 1 p.m. to 2:30 p.m. The river would close for the helicopter to complete the second pull.

2. *Activity #2: Preparation to pull conductor.* No activities requiring closure of navigation channel and other portions of the Patapsco River are planned from October 14, 2021, through October 17, 2021. On those dates, pull equipment will be set up at designated land-based locations.

3. *Activity #3: Pull and clip in conductor and cable.* October 18, 2021, (alternate date October 20, 2021), October 25, 2021, (alternate date October 27, 2021), November 1, 2021, (alternate date November 3, 2021), and November 3, 2021, (alternate date November 5, 2021). On those dates, four separate equipment pulling operations will be conducted to pull the hardline across the river using the rope that were previously strung and the conductor pair across the river using the hardline. A full river closure is required for each pull. The first closure would occur from 9 a.m. to 10:30 a.m. After this period, the conductor reels will be re-set and prepared for the next pull, and the river would open to vessel traffic. The second closure would occur from 1 p.m. to 2:30 p.m. The river would close for the conductor reels to complete the second pull.

4. *Activity #4: Install dampers, spacers, and marker balls.* November 9, 2021, (alternate date November 11, 2021), November 10, 2021, (alternate date November 12, 2021), November 11, 2021, (alternate date November 15, 2021), November 12, 2021, (alternate date November 16, 2021), and November 15, 2021, (alternate date November 17, 2021). On these dates, helicopter flights will be conducted each day to transport on-board helicopter lineman to install 30 conductor spacers each between Tower 1 and Tower 2, and between Tower 2 and Tower 3, 39 conductor spacers between Tower 3 and Tower 4 and 33 conductor spacers between Tower 4 and Tower 5, and 33 conductor spacers each between Tower 5 and Tower 6, and between Tower 6 and Tower 7. A partial river closure is required for all six flights on November 9, 2021. Partial river closures would occur between Tower 1 and Tower 2 from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 1 and Tower 2 would open to vessel traffic. Partial river closures would occur between Tower 2 and Tower 3 from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 2 and Tower 3 would open to vessel traffic for the remainder of the day. A navigation channel closure is required for all morning flights on November 10, 2021. Navigation channel closures would occur between Tower 3

and Tower 4 from 6 a.m. to 7 a.m., from 7:30 a.m. to 8:30 a.m., from 9 a.m. to 10 a.m., and from 10:30 a.m. to 11:30 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 3 and Tower 4 would open to vessel traffic. A partial river closure is required for all afternoon flights on November 10, 2021. Partial river closures would occur between Tower 4 and Tower 5 from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 4 and Tower 5 would open to vessel traffic for the remainder of the day. A partial river closure is required for all six flights on November 11, 2021. Partial river closures would occur between Tower 5 and Tower 6 from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 5 and Tower 6 would open to vessel traffic. Partial river closures would occur between Tower 6 and Tower 7 from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 6 and Tower 7 would open to vessel traffic for the remainder of the day. A partial river closure is required for eight flights, and a channel closure is required for six flights, on November 12, 2021. Partial river closures would occur between Tower 1 and Tower 2 from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 1 and Tower 2 would open to vessel traffic. Partial river closures would occur between Tower 2 and Tower 3 from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 2 and Tower 3 would open to vessel traffic. Navigation channel closures would occur between Tower 3 and Tower 4 from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 3 and Tower 4 would open to vessel traffic for the remainder of the day. A partial river closure is required for all 12 flights on November 15, 2021. Partial river closures would occur between Tower 4 and Tower 5 from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 4 and Tower 5 would open to vessel traffic. Partial river closures would occur between Tower 5 and Tower 6 from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 5 and Tower 6 would open to vessel traffic. Partial river closures would occur between Tower 6 and Tower 7 from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., and from 4 p.m. to 4:30 p.m., and from 5 p.m. to 5:30 p.m. After each period, the helicopter will fly back to the staging area to re-fuel and pick up more materials, and the river between Tower 6 and Tower 7 would open to vessel traffic for the remainder of the day.

Dates of no scheduled activities requiring closure of navigation channel and other portions of the Patapsco River during the installation of Circuit 2344: October 16th, October 17th, October 19th, October 21st, October 22nd, October 23rd, October 24th, October 26th, October 28th, October 29th, October 30th, October 31st, November 2nd, November 4th, November 6th, November 7th, November 13th, and November 14th. On November 8, 2021 (alternate date November 10, 2021), specifically, helicopter flights will be conducted to transport personnel and equipment to the tower locations for workers to install dampers.

Due to the nature of the work and the hazards it presents to the workers and the public, the COTP has identified the need to close the Patapsco River near the Francis Scott Key (I–695) Bridge while this work is ongoing. On days the safety zone would be enforced, the affected area of the river would be closed during the dates and times scheduled. These dates and times may change due to weather, or for any reason that the primary dates and times could not be used. Alternative dates have been provided in the event the primary dates can not be used. Exact dates and times would be announced by broadcast notice to mariners, between one and five days in advance of the scheduled date, to alert mariners of the change. This safety zone would cover all navigable waters of the Patapsco River, encompassed by a line connecting the following points beginning at the shoreline at Thoms Cove at position latitude 39°12′36″ N, longitude 076°32′50″ W, thence east and south along the shoreline to Hawkins Point at latitude 39°12′40″ N, longitude 076°31′58″ W, thence northeast across the Patapsco River to Coffin Point at latitude 39°13′55″ N, longitude 076°30′18″ W, thence west and north along the shoreline to Sollers Point at latitude 39°14′01″ N, longitude 076°30′59″ W, thence west across the Patapsco River to and terminating at the point of origin, located at Baltimore, MD. The safety zone is approximately 4,000 yards in length and 900 yards in width.

This proposed rule provides additional information about areas within the safety zone and their definitions. These areas include ''Area 1,'' ''Area 2,'' ''Area 3,'' ''Area 4,'' ''Area 5,'' and ''Area 6.'' A diagram of the tower locations is provided in the docket folder. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

The duration of the rule and enforcement of the zone is intended to ensure the safety of personnel, vessels, and the marine environment in these navigable waters while the activities associated with the installation of two new overhead power transmission lines crossing over the Patapsco River are being conducted. The COTP would notify the public that the safety zone will be enforced by all appropriate means to the affected segments of the public, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners. Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 70036 (previously codified in 33 U.S.C. 1232) and 46 U.S.C. 70052 (previously codified in 50 U.S.C. 192).

Except for craft and equipment operated by BGE, or its subcontractors, no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

## IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses

based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

*A. Regulatory Planning and Review*

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

This regulatory action determination is based on the size, duration, day-of-week, and time of year of the proposed safety zone, which would impact a small designated area of the Patapsco River during certain weekdays (Mondays through Fridays, including holidays). Vessels or persons would not be allowed to enter or transit a portion of the Patapsco River for a total 97 enforcement-hours, over an 11-week period from September 1, 2021, through November 17, 2021, during active overhead power transmission line installation activities as described in the text above. The closures are scheduled to impose the least amount of impact on vessel operations in Baltimore Harbor. Due to the nature of the work and the hazards it presents to the workers and the public, the COTP has identified the need to close the Patapsco River in the vicinity of the overhead power line crossing while this work is ongoing. Moreover, the Coast Guard will issue Local Notices to Mariners and a Broadcast Notice to Mariners via VHF–FM marine channel 16 about 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 97 total enforcement hours that would prohibit entry within portions of the Patapsco River. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

## V. Public Participation and Request for Comments

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

applies, and provide a reason for each suggestion or recommendation.

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

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

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

**List of Subjects in 33 CFR Part 165**

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

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

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

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

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

■ 2. Add § 165.T05–0327 to read as follows:

**§ 165.T05–0327 Safety Zone; Patapsco River, Baltimore, MD.**

(a) *Location.* The following area is a safety zone: All navigable waters of the Patapsco River, encompassed by a line connecting the following points beginning at the shoreline at Thoms Cove at position latitude 39°12′36″ N, longitude 076°32′50″ W, thence east and south along the shoreline to Hawkins Point at latitude 39°12′40″ N, longitude 076°31′58″ W, thence northeast across the Patapsco River to Coffin Point at latitude 39°13′55″ N, longitude 076°30′18″ W, thence west and north along the shoreline to Sollers Point at latitude 39°14′01″ N, longitude 076°30′59″ W, thence west across the Patapsco River to and terminating at the point of origin, located at Baltimore, MD. The following areas are within the safety zone:

(1) Area 1. All navigable waters within the safety zone described in paragraph (a) of this section, located between Tower 1 at latitude 39°12′35.73″ N, longitude 076°32′30.00″ W, and Tower 2 at latitude 39°12′46.87″ N, longitude 076°32′14.05″ W.

(2) Area 2. All navigable waters within the safety zone described in paragraph (a) of this section, located between Tower 2 at latitude 39°12′46.87″ N, longitude 076°32′14.05″ W, and Tower 3 at latitude 39°12′58.56″ N, longitude 076°31′58.74″ W.

(3) Area 3. All navigable waters within the safety zone described in paragraph (a) of this section, located between Tower 3 at latitude 39°12′58.56″ N, longitude 076°31′58.74″ W, and Tower 4 at latitude 39°13′13.79″ N, longitude 076°31′38.79″ W.

(4) Area 4. All navigable waters within the safety zone described in paragraph (a) of this section, located between Tower 4 at latitude 39°13′13.79″ N, longitude 076°31′38.79″ W, and Tower 5 at latitude 39°13′26.61″ N, longitude 076°31′21.98″ W.

(5) Area 5. All navigable waters within the safety zone described in paragraph (a) of this section, located between Tower 5 at latitude 39°13′26.61″ N, longitude 076°31′21.98″ W, and Tower 6 at latitude 39°13′39.43″ N, longitude 076°31′05.18″ W.

(6) Area 6. All navigable waters within the safety zone described in paragraph (a) of this section, located between Tower 6 at latitude 39°13′39.43″ N, longitude 076°31′05.18″ W, and Tower 7 at latitude 39°13′52.14″ N, longitude 076°30′48.69″ W.

(7) These coordinates are based on datum NAD 83.

(b) *Definitions.* As used in this section—

*Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the safety zone.

*Tower* means a Baltimore Gas and Electric Company steel monopole structure used to support overhead high voltage transmission lines, located between the vicinity of the Hawkins Point Terminal Station on the west side of the Patapsco River and a location just north of Sollers Point Terminal Station on the east side of the Patapsco River.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement periods.* (1) Paragraphs (a)(1) through (6) of this section will be enforced:

(i) From 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 1, 2021. If necessary due to inclement weather or other reason on September 1, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 7, 2021;

(ii) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 2, 2021. If necessary due to inclement weather or other reason on September 2, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 8, 2021;

(iii) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 13, 2021. If necessary due to inclement weather or other reason on September 13, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 15, 2021;

(iv) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 20, 2021. If necessary due to inclement weather or other reason on September 20, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 22, 2021;

(v) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 24, 2021. If necessary due to inclement weather or other reason on September 24, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on September 28, 2021;

(vi) from 9 a.m. to 10:30 a.m. on September 27, 2021. If necessary due to

inclement weather or other reason on September 27, 2021, it will be enforced from 9 a.m. to 10:30 a.m. on September 29, 2021;

(vii) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 12, 2021. If necessary due to inclement weather or other reason on October 12, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 14, 2021;

(viii) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 13, 2021. If necessary due to inclement weather or other reason on October 13, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 15, 2021;

(ix) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 18, 2021. If necessary due to inclement weather or other reason on October 18, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 20, 2021;

(x) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 25, 2021. If necessary due to inclement weather or other reason on October 25, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on October 27, 2021;

(xi) from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on November 1, 2021. If necessary due to inclement weather or other reason on November 1, 2021, it will be enforced from 9 a.m. to 10:30 a.m. and from 1 p.m. to 2:30 p.m. on November 3, 2021; and

(xii) from 9 a.m. to 10:30 a.m. on November 3, 2021. If necessary due to inclement weather or other reason on November 3, 2021, it will be enforced from 9 a.m. to 10:30 a.m. on November 5, 2021.

(2) Paragraph (a)(1) of this section will be enforced:

(i) From 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. on October 5, 2021. If necessary due to inclement weather or other reason on October 5, 2021, it will be enforced from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. on October 7, 2021;

(ii) from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on October 8, 2021. If necessary due to inclement weather or other reason on October 8, 2021, it will be enforced from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on October 12, 2021;

(iii) from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 10:30 a.m. on November 9, 2021. If necessary due to inclement weather or other reason on November 9, 2021, it will be enforced from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 10:30 a.m. on November 11, 2021; and

(iv) from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on November 12, 2021. If necessary due to inclement weather or other reason on November 12, 2021, it will be enforced from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on November 16, 2021.

(3) Paragraph (a)(2) of this section will be enforced:

(i) From 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on October 5, 2021. If necessary due to inclement weather or other reason on October 5, 2021, it will be enforced from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on October 7, 2021;

(ii) from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on October 8, 2021. If necessary due to inclement weather or other reason on October 8, 2021, it will be enforced from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on October 12, 2021;

(iii) from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on November 9, 2021. If necessary due to inclement weather or other reason on November 9, 2021, it will be enforced from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on November 11, 2021; and

(iv) from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on November 12, 2021. If necessary due to inclement weather or other reason on November 12, 2021, it will be enforced from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on November 16, 2021.

(4) Paragraph (a)(3) of this section will be enforced:

(i) From 6 a.m. to 7 a.m., from 7:30 a.m. to 8:30 a.m., from 9 a.m. to 10 a.m., and from 10:30 a.m. to 11:30 a.m. on October 6, 2021. If necessary due to inclement weather or other reason on October 6, 2021, it will be enforced from 6 a.m. to 7 a.m., from 7:30 a.m. to 8:30 a.m., from 9 a.m. to 10 a.m., and from 10:30 a.m. to 11:30 a.m. on October 8, 2021;

(ii) from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. on October 8, 2021. If necessary due to inclement weather or other reason on October 8, 2021, it will be enforced from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. on October 12, 2021;

(iii) from 6 a.m. to 7 a.m., from 7:30 a.m. to 8:30 a.m., from 9 a.m. to 10 a.m., and from 10:30 a.m. to 11:30 a.m. on November 10, 2021. If necessary due to inclement weather or other reason on November 10, 2021, it will be enforced from 6 a.m. to 7 a.m., from 7:30 a.m. to 8:30 a.m., from 9 a.m. to 10 a.m., and from 10:30 a.m. to 11:30 a.m. on November 12, 2021; and

(iv) from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. on November 12, 2021. If necessary due to inclement weather or other reason on November 12, 2021, it will be enforced from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. on November 16, 2021.

(5) Paragraph (a)(4) of this section will be enforced:

(i) From 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on October 6, 2021. If necessary due to inclement weather or other reason on October 5, 2021, it will be enforced from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on October 8, 2021;

(ii) from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on October 11, 2021. If necessary due to inclement weather or other reason on October 11, 2021, it will be enforced from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on October 13, 2021;

(iii) from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on November 10, 2021. If necessary due to inclement weather or other reason on November 10, 2021, it will be enforced from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on November 12, 2021; and

(iv) from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and from 9 a.m. to 9:30 a.m. on November 15, 2021. If necessary due to inclement weather or other reason on November 15, 2021, it will be enforced from 6 a.m. to 6:30 a.m., from 7 a.m. to 7:30 a.m., from 8 a.m. to 8:30 a.m., and

from 9 a.m. to 9:30 a.m. on November 17, 2021.

(4) Paragraph (a)(5) of this section will be enforced:

(i) From 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. on October 7, 2021. If necessary due to inclement weather or other reason on October 7, 2021, it will be enforced from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. on October 11, 2021;

(ii) from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on October 11, 2021. If necessary due to inclement weather or other reason on October 11, 2021, it will be enforced from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on October 13, 2021;

(iii) from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. on November 11, 2021. If necessary due to inclement weather or other reason on November 11, 2021, it will be enforced from 6 a.m. to 7 a.m., from 8 a.m. to 9 a.m., and from 10 a.m. to 11 a.m. on November 15, 2021; and

(iv) from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on November 15, 2021. If necessary due to inclement weather or other reason on November 15, 2021, it will be enforced from 10 a.m. to 10:30 a.m., from 11 a.m. to 11:30 a.m., from 12 p.m. (noon) to 12:30 p.m., and from 1 p.m. to 1:30 p.m. on November 17, 2021.

(4) Paragraph (a)(6) of this section will be enforced:

(i) From 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on October 7, 2021. If necessary due to inclement weather or other reason on October 7, 2021, it will be enforced from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on October 11, 2021;

(ii) from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. on October 11, 2021. If necessary due to inclement weather or other reason on October 11, 2021, it will be enforced from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., from 5 p.m. to 5:30 p.m., from 6 p.m. to 6:30 p.m., and from 7 p.m. to 7:30 p.m. on October 13, 2021;

(iii) from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on November 11, 2021. If necessary due to inclement weather or other reason on November 11, 2021, it will be enforced from 12 p.m. (noon) to 1 p.m., from 2 p.m. to 3 p.m., and from 4 p.m. to 5 p.m. on November 15, 2021; and

(iv) from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., and from 5 p.m. to 5:30 p.m. on November 15, 2021. If necessary due to inclement weather or other reason on November 15, 2021, it will be enforced from 2 p.m. to 2:30 p.m., from 3 p.m. to 3:30 p.m., from 4 p.m. to 4:30 p.m., and from 5 p.m. to 5:30 p.m. on November 17, 2021.

Dated: June 10, 2021.

**David E. O'Connell,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2021–12580 Filed 6–15–21; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2021–0052; FRL–10023–82–Region 3]**

## Approval and Promulgation of Air Quality Implementation Plans; Maryland; Emissions Statement Requirement for the 2015 Ozone National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision fulfills Maryland's emissions statement requirement for the 2015 ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before July 16, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2021–0052 at *https://www.regulations.gov,* or via email to *talley.david@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

**FOR FURTHER INFORMATION CONTACT:** Adam Yarina, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2108. Mr. Yarina can also be reached via electronic mail at *yarina.adam@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On October 26, 2015, EPA revised the ozone NAAQS from 0.075 parts per million (ppm) to 0.070 ppm,[1] and subsequently designated the Baltimore, MD, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE, and Washington, DC-MD-VA areas as Marginal Nonattainment for the 2015 ozone NAAQS on June 4, 2018.[2] These areas include the following Maryland counties: Anne Arundel, Baltimore, Baltimore City, Carroll, Harford, Howard, Cecil, Calvert, Charles, Frederick, Montgomery, and Prince George's counties.[3] Section 182 of the CAA identifies plan submissions and requirements for ozone nonattainment areas. Specifically, section 182(a)(3)(B) requires that states develop and submit rules which establish annual reporting requirements for certain stationary sources. Sources that are within marginal (or worse) ozone nonattainment areas must annually report the actual emissions of nitrogen oxides ($NO_X$) and volatile organic compounds (VOC) to the state. However, states may waive reporting requirements for sources that emit under 25 tpy of $NO_X$ and VOC if the state provides an inventory of emissions from such class or category of sources. See CAA section 182(a)(3)(B)(ii).

Additionally, Maryland is located in the ozone transport region (OTR)

[1] See 80 FR 65291.

[2] See 83 FR 25776.

[3] See 40 CFR 81.321.

established by Congress in section 184 of the CAA. Pursuant to section 184(b)(2), any stationary source that emits or has the potential to emit at least 50 tons per year (tpy) of VOC shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a moderate nonattainment area. See CAA section 184. Thus, states within the OTR are subject to certain plan requirements in CAA section 182(b) applicable to moderate nonattainment areas. Also, section 182(f)(1) of the CAA requires that the plan provisions required for major stationary sources of VOC also apply to major stationary sources of $NO_X$ for states with moderate (or worse) ozone nonattainment areas. A major stationary source of $NO_X$ is defined as a stationary facility or source of air pollutants which directly emits or has the potential to emit 100 tpy or more of $NO_X$. See CAA section 302(j). Because Maryland is in the OTR, stationary sources located in attainment areas in Maryland and which emit above 50 tpy of VOC or 100 tpy of $NO_X$ are considered major sources and also subject to the requirements of major stationary sources in moderate (or worse) nonattainment areas, including the emissions statement submission required by CAA section 182(a)(3)(B). See CAA sections 182(f) and 184(b)(2).

On July 6, 2020, the State of Maryland, through the Maryland Department of the Environment (MDE), submitted a SIP revision to satisfy the emissions statement requirement of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

## II. Summary of SIP Revision and EPA Analysis

On October 12, 1994 (59 FR 51517), EPA first approved Maryland's SIP submittal satisfying CAA section 182(a)(3)(B) and has approved submissions for section 182(a)(3)(B) for each succeeding revision of the ozone NAAQS. Maryland's emissions reporting requirements are codified in Code of Maryland Regulations (COMAR) 26.11.01.05–1 ''Emissions Statements.'' COMAR 26.11.01.05–1 requires sources that emit above specified thresholds of $NO_X$ or VOC to submit an emissions statement to the State. The emissions threshold for reporting varies according to the county in which the source is located. The statement must be submitted by a certified individual who can verify the source's actual emissions.

COMAR 26.11.01.05–1.A(1) requires a person who owns or operates any installation, source, or premises that emits 25 tons or more of $NO_X$ or VOC during a calendar year and is located in Baltimore City or the counties of Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Charles, Frederick, Harford, Howard, Kent, Montgomery, Prince George's, or Queen Anne's to submit an emissions statement to the state. These counties are included in various ozone nonattainment areas. See 40 CFR 81.321. Per CAA section 182(a)(3)(B)(ii), states may waive this requirement for sources that emit less than 25 tpy of $NO_X$ or VOC if the state provides an inventory of emissions from such class or category of sources as required by CAA sections 172 and 182. Maryland provides emissions inventories for nonattainment areas as required by CAA sections 172(c)(3) and 182(a)(3)(B).[4]

COMAR 26.11.01.05–1 also requires a person who owns or operates any installation, source, or premises that emits 50 tons or more of VOC or 100 tons or more of $NO_X$ during a calendar year to submit an emissions statement if they are located in the following counties: Allegany, Caroline, Dorchester, Garrett, St. Mary's, Somerset, Talbot, Washington, Wicomico, or Worcester Counties. These counties are designated attainment/unclassifiable for the 2015 ozone NAAQS but within the OTR; therefore, sources in attainment areas for the 2015 ozone NAAQS that emit 50 tpy or more of VOC or 100 tpy or more of $NO_X$ are considered major sources and subject to the requirements for major stationary sources applicable to moderate nonattainment areas. Because the requirements for moderate nonattainment areas include all the requirements for marginal areas, major sources in these areas are also subject to the emission statement submission requirement specified in CAA section 182(a)(3)(B).[5]

In Maryland's July 6, 2020 SIP submittal, Maryland states that the existing COMAR 26.11.01.05–1 ''Emissions Statements'' continues to satisfy section 182(a)(3)(B) for the 2015 ozone NAAQS because Maryland has not made any changes since EPA's prior approval and COMAR 26.11.01.05–1 meets the CAA requirements for emission statements.[6] EPA is proposing to find that COMAR 26.11.01.05–1 continues to satisfy CAA section 182(a)(3)(B) because the existing rule is applicable to the entire State of Maryland and requires stationary sources that emit $NO_X$ or VOC to submit an emissions statement to the State detailing the sources' emissions. EPA finds that Maryland's emissions thresholds for stationary sources that are required to submit an emissions statement meet CAA requirements in sections 182 (plan submissions and requirements for ozone nonattainment areas) and 184 (OTR requirements).[7] Therefore, EPA has determined that COMAR 26.11.01.05–1, which is currently in the Maryland SIP, is appropriate to address the emissions statement requirement in section 182(a)(3)(B) and is proposing to approve this SIP revision. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## III. Proposed Action

EPA is proposing to approve the May 12, 2020 Maryland SIP revision, submitted on July 6, 2020, certifying that Maryland's existing SIP-approved emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2015 ozone NAAQS.

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

[4] The Maryland Department of the Environment has previously formally submitted base year 2017 emissions inventories for: The Baltimore, MD 2015 Ozone NAAQS Nonattainment Area; the Cecil County, MD 2015 Ozone NAAQS Nonattainment Area; and the Washington DC–MD–VA 2015 Ozone NAAQS Nonattainment Area.

[5] See CAA sections 182(f) and 184(b)(2).

[6] See 59 FR 51517 (October 12, 1994).

[7] See also ''Guidance on the Implementation of an Emission Statement Program (July 1992).''

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking, which proposes to approve Maryland's certification that Maryland's SIP-approved emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 28, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2021–11924 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 51c

**RIN 0906–AB25**

## Proposed Rescission of Executive Order 13937, ''Executive Order on Access to Affordable Life-Saving Medications''

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Health and Human Services (HHS) proposes to rescind the final rule entitled ''Implementation of Executive Order on Access to Affordable Life-Saving Medications,'' published in the December 23, 2020, **Federal Register**. HHS is proposing the rescission due to undue administrative costs and burdens that implementation would impose on health centers. In particular, the final rule would require health centers to create and sustain new practices necessary to determine patients' eligibility to receive certain drugs at or below the discounted price paid by the health center or subgrantees under the 340B Program, resulting in reduced resources available to support critical services to their patients—including those who use insulin and injectable epinephrine. These challenges would be significantly exacerbated by the multitude of demands on health centers related to the COVID–19 pandemic. HHS is seeking public comment on this notice of proposed rulemaking (NPRM). As Executive Order 13937 remains in effect, should the final rule be rescinded, other implementation approaches will be considered to effectuate the Executive Order.

**DATES:** Written comments and related material to this proposed rule must be received to the online docket via *https://www.regulations.gov* on or before July 16, 2021.

**ADDRESSES:** Comments must be identified by HHS Docket No. HRSA–2021–0003 and submitted electronically to the Federal eRulemaking Portal at *https://www.regulations.gov*. Follow the instructions for submitting comments. Comments and attachments will be posted to the docket unchanged. Because your comments will be made public, you are solely responsible for ensuring that your comments do not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information. Additionally, if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Joseph, Director, Office of Policy and Program Development, Bureau of Primary Health Care, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, Maryland 20857; email: *jjoseph@hrsa.gov*; telephone: 301–594–4300; fax: 301–594–4997.

**SUPPLEMENTARY INFORMATION:**

### I. Background

HHS published a notice of proposed rulemaking (NPRM) in the **Federal Register** on September 28, 2020 (85 FR 60748), and a final rule on December 23, 2020 (85 FR 83822) entitled, ''Implementation of Executive Order on Access to Affordable Life-Saving Medications.'' This rule established a new requirement directing all health centers receiving grants under section 330(e) of the Public Health Service (PHS) Act (42 U.S.C. 254b(e)) that participate in the 340B Program (42 U.S.C. 256b), to the extent that they plan to make insulin and/or injectable epinephrine available to their patients, to provide assurances that they have established practices to provide these drugs at or below the discounted price paid by the health center or subgrantees under the 340B Program (plus a minimal administration fee) to health center patients with low incomes, as determined by the Secretary, who have a high cost sharing requirement for either insulin or injectable epinephrine; have a high unmet deductible; or who have no health insurance.

Pursuant to the January 20, 2021, memorandum from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' and OMB Memorandum M–21–14, the effective date of the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule, published in the December 23, 2020, **Federal Register** (85 FR 83822), was delayed from January 22, 2021, to March 22, 2021 (86 FR 7069), to give HHS officials the opportunity for further review and consideration of the rule.

On March 11, 2021 (86 FR 13872), HHS published a proposed rule to further delay the effective date of the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule. On March 22, 2021, the effective date of the

''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule was delayed to July 20, 2021 (86 FR 15423), to allow HHS an additional opportunity to review and consider further questions of fact, law, and policy that may be raised by the rule, including whether revision or withdrawal of the rule may be warranted.

After a careful reassessment of the comments submitted in response to the proposed rule published at 85 FR 60748 (September 28, 2020) and consideration of the comments received on the proposed rule published at 86 FR 13872 (March 11, 2021), HHS is proposing in this NRPM to rescind the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule. As set forth more specifically below, HHS has significant concerns regarding health centers needing to divert vital resources to implement this rule, as the administrative burden and cost necessary to comply with the rule and thus maintain eligibility for future grants has the potential to constrain health centers' ability to provide ongoing primary care services to medically underserved and vulnerable populations. HHS has reconsidered previously submitted comments regarding the administrative burdens associated with the rule in light of the significantly increased, long-term reliance on health centers in responding to the COVID–19 pandemic, particularly related to health centers' role in addressing health equity and vaccine delivery for hard-to-reach and disproportionately affected populations that were not readily apparent at the time the rule was finalized in December 2020. Moreover, this rule will result in a loss of revenue from 340B savings for health centers participating in the 340B Program and this loss, along with increased administrative costs and administrative burden, will result in reduced resources being available to support services to health center patients. In addition, most commenters noted that, in many cases, these health centers already provide medications at reduced prices to their patients.

HHS has considered comments submitted by commenters prior to the final rule's promulgation and in response to the proposed rule published at 86 FR 13872 (March 11, 2021) in the development of this NPRM and will consider new comments submitted in response to this NPRM.

## II. Statutory Authority

The statement of authority for 42 CFR part 51c continues to read section 330 of the Public Health Service Act (''PHS Act'' or ''the Act'') (42 U.S.C. 254b) and section 215 of the PHS Act, (42 U.S.C. 216).

## III. Discussion of Proposed Rule

HHS is proposing to rescind the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule. As the final rule has not become effective, this NPRM proposes that the existing regulation remain unchanged. In particular, this NPRM proposes to rescind the final rule and retract the related requirement for awarding new grants under section 330(e) of the PHS Act (42 U.S.C. 254b) that the awardee offering insulin and injectable epinephrine to its patients have established written practices to make insulin and injectable epinephrine available at or below the discounted price paid by the health center grantee or subgrantee under the 340B Program (plus a minimal administration fee) to health center patients with low incomes who: (a) Have a high cost sharing requirement for either insulin or injectable epinephrine, (b) have a high unmet deductible, or (c) have no health insurance.

This NPRM proposes to rescind the rule that amended 42 CFR 51c.303, by deleting paragraph (w). This NPRM also proposes that the Program Term established by the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule not be included on any Notices of Award issued to health centers receiving grant funds under section 330(e) of the Act.

HHS is proposing to rescind this rule because, although certain health center patients might benefit from it, the additional costs and burden the rule would place on health centers could harm the program and the patients it serves as a whole. Allowing this final rule to become effective would increase the burden on health centers and divert necessary resources from patient care to the administration of new processes. In order to implement this new requirement, health centers would need to absorb significant additional cost, time, and ongoing support staff to create and maintain new reporting, monitoring, technical and administrative re-engineering, staff training, and workflow re-designs to assess eligibility for patients to receive insulin and injectable epinephrine consistent with the final rule.

Other more specific administrative burdens and costs imposed by the final rule that were shared by commenters included the need for health center staff to track patients' eligibility for the pricing described in the rule as it relates to: (1) Whether patients are receiving insulin or injectable epinephrine through a 340B pharmacy, (2) whether patients' incomes meet the threshold in the rule (which is different from that used for the Health Center Program sliding fee discount schedule and therefore has to be calculated separately), and (3) whether patients have a high unmet deductible each time they fill their prescriptions—which may be further complicated due to the delay in medical billing and claims processing—or whether they have a high deductible or high cost-sharing requirement as part of their insurance plan. These burdens would also extend to ensuring that all relevant information is transmitted to contract pharmacies. HHS has concerns that under the final rule, health centers and pharmacies with whom they contract may find it challenging to ascertain a patient's eligibility for pricing under this rule based on whether or not that patient continues to have a high unmet deductible in real time, particularly due to delays in medical billing and claims processing.

HHS is also concerned that the final rule creates a new required definition, applicable only to these two classes of drugs, of ''individuals with low income,'' to include those individuals with incomes at or below 350 percent of the amount identified in the Federal Poverty Guidelines (FPG). This new required definition is in contrast with the Health Center Program's required use of a sliding fee discount schedule standard for Health Center Program grantees applicable to individuals with incomes at or below 200 percent of the FPG, pursuant to 42 CFR 51c.303(f). Health centers must currently establish a sliding fee discount schedule for services provided to patients with incomes between 100 and 200 percent of the FPG, with a full discount to individuals and families with annual incomes at or below 100 percent of those set forth in the FPG. Health centers also may collect nominal fees for services from individuals and families at or below 100 percent of the FPG, and no sliding fee discount may be provided to individuals and families with annual incomes greater than 200 percent of the FPG. Health centers must also demonstrate to HHS that they maintain and apply such sliding fee discount schedules to the provision of health services, which requires them to establish and maintain processes for identifying patient income levels for billing purposes consistent with these requirements. Therefore, given the differences between these standards,

HHS agrees with the concerns expressed by a substantial majority of commenters that describing ''low income'' as 350 percent of FPG for the purpose of the rule would require the establishment of a new, distinct, and higher ''low income'' threshold applicable to these two classes of drugs, and that applying this distinct standard for purposes of billing for these drugs would create significant administrative challenges for health centers. HHS shares commenters' concerns regarding the undue administrative burden and costs of the rule and the resulting diversion of resources from needed patient care, especially during the COVID–19 pandemic, in order to cover such increased administrative costs.

HHS also shares commenters' concerns that defining ''individuals with low incomes'' at 350 percent of FPG imposes the additional burden and cost of creating and operating two different eligibility systems. This definition of ''low income'' is inconsistent with standards applied in other comparable federal programs. Commenters noted that every federal program with an income eligibility threshold defines ''low income'' as 250 percent of the FPG or less. Commenters further noted that, while the Patient Protection and Affordable Care Act uses a ceiling of 400 percent of the FPG to identify those eligible for premium tax credits on the Exchanges, this is not a definition of ''low income,'' as premium tax credits are designed for both lower and middle income individuals. 26 U.S.C. 36B(b)(3)(A)(i).

Finally, commenters expressed concerns that the rule was based on a fundamental misunderstanding of the 340B Program since health centers are already required by the Health Center Program to use any savings to benefit their patient population (42 U.S.C. 254b(e)(5)(D)). HHS shares their concerns that this rule will result in a loss of 340B revenue for health centers participating in the 340B Program, and that this loss, along with increased administrative costs and administrative burden, will result in reduced resources available to support critical services to health center patients, including those who use insulin or injectable epinephrine and who receive other services from health centers. HHS is undertaking this unusual step of issuing this NPRM to understand more about these concerns and to propose a potential rescission of this rule.

HHS invites comment on this NPRM proposing to rescind the final rule ''Implementation of Executive Order on Access to Affordable Life-Saving Medications.''

## IV. Regulatory Impact Analysis (RIA)

HHS has examined the effects of this NPRM as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 8, 2011), the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132 on Federalism (August 4, 1999).

*Executive Orders 12866 and 13563*

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866, emphasizing the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the Office of Management and Budget (OMB). HRSA estimates that, on average, each health center would need one additional full-time equivalent (FTE) eligibility assistance worker at approximately $50,000 to support necessary additional administrative processes, totaling approximately $68,750,000 across health centers.

As stated in the RIA for the final rule published December 23, 2020, HRSA determined that the rule is not economically significant, given that the administrative burden of $68.7 million described above falls below the ''economically significant'' threshold of $100 million. HRSA relies on that same analysis now, finding that rescission of that rule will have an economic impact of the same amount, $68,750,000, in administrative savings to health centers, and that such amount is below the ''economically significant'' threshold of $100 million. Also, as stated in the December 23, 2020 final rule, a number of patients served at health centers and covered by that final rule may already receive these two medications at reduced prices, further reducing the economic significance of this proposed rescission. In order to determine whether the proposed rescission of the rule is a ''significant regulatory action'' under Section 3(f) of Executive Order 12866, HHS welcomes comments concerning the economic impact of this proposed rescission of the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' rule or implementation of the proposed rescission on the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.

*The Regulatory Flexibility Act (RFA)*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) and the Small Business Regulatory Enforcement and Fairness Act of 1996, which amended the RFA, require HHS to analyze options for regulatory relief of small businesses. If a rule has a significant economic effect on a substantial number of small entities, the Secretary must specifically consider the economic effect of the rule on small entities and analyze regulatory options that could lessen the impact of the rule. As we did in the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' final rule, HHS will use an RFA threshold of at least a 3 percent impact on at least 5 percent of small entities.

For purposes of the RFA, HHS considers all health care providers to be small entities either by meeting the Small Business Administration (SBA) size standard for a small business, or by being a nonprofit organization that is not dominant in its market. The current SBA size standard for health care providers ranges from annual receipts of

$8 million to $41.5 million. As of August 8, 2020, the Health Center Program provides grant funding under section 330(e) of the PHS Act to 1,310 organizations to provide health care to medically underserved communities. HHS has determined, and the Secretary certifies, that this NPRM would not have a significant impact on the operations of a substantial number of small health centers; therefore, we are not preparing an analysis of impact for purposes of the RFA. HHS estimates the economic impact on small entities as a result of rescinding the ''Implementation of Executive Order on Access to Affordable Life-Saving Medications'' final rule would be minimal. HHS welcomes comments concerning the economic impact of this NPRM on health centers.

*Unfunded Mandates Reform Act*

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.'' In 2019, that threshold level was approximately $164 million. HHS does not expect this NPRM to exceed the threshold.

*Executive Order 13132—Federalism*

HHS has reviewed this NPRM in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' This NPRM would not ''have substantial direct effects on the States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This NPRM would not adversely affect the following family elements: Family safety, family stability, marital commitment; parental rights in the education, nurture, and supervision of their children; family functioning, disposable income or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999.

*Paperwork Reduction Act of 1995*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that OMB approve all collections of information by a federal agency from the public before they can be implemented. This NPRM is projected to have no impact on current reporting and recordkeeping burden for health centers. This NPRM would result in no new reporting burdens. Comments are welcome on the accuracy of this statement.

**List of Subjects in 42 CFR Part 51c**

Grant programs—Health, Health care, Health facilities, Reporting and recordkeeping requirements.

Dated: June 10, 2021.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

Accordingly, by the authority vested in me as the Secretary of Health and Human Services, and for the reasons set forth in the preamble, 42 Code of Federal Regulations Part 51c is amended as follows:

## PART 51c—GRANTS FOR COMMUNITY HEALTH CENTERS

■ 1. The authority citation for part 51c is revised to read as follows:

**Authority:** Sec. 330, Public Health Service Act, 89 Stat. 342, (42 U.S.C. 254b); sec. 215, Public Health Service Act, 58 Stat. 690, (42 U.S.C. 216).

**§ 51c.303 [Amended]**

■ 2. Amend § 51c.303 by removing paragraph (w).

[FR Doc. 2021–12545 Filed 6–15–21; 8:45 am]

BILLING CODE 4165–15–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MB Docket No. 21–221; RM–11908; DA 21–600; FR ID 29165]**

### Television Broadcasting Services Las Vegas, Nevada

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission has before it a petition for rulemaking filed by Scripps Broadcasting Holdings, LLC (Petitioner), the licensee of KTNV–TV (ABC), channel 13, Las Vegas, Nevada. The Petitioner requests the substitution of channel 26 for channel 13 at Las Vegas in the DTV Table of Allotments.

**DATES:** Comments must be filed on or before July 16, 2021 and reply comments on or before August 2, 2021.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Daniel Kirkpatrick, Esq., Baker & Hostetler, LLP, 1050 Connecticut Avenue NW, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, at (202) 418–1647; or Joyce Bernstein, Media Bureau, at *Joyce.Bernstein@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** In support of its channel substitution request, the Petitioner states that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances and nearby electrical devices to cause interference. According to the Petitioner, it has received many complaints from viewers unable to receive a reliable signal on channel 13. In addition, the Petitioner demonstrated that its proposal would result in a loss area of 460.9 square kilometers, containing only five people who will continue to receive service from two other full power television stations.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 21–221; RM–11908; DA 21–600, adopted May 21, 2021, and released May 21, 2021. The full text of this document is available for download at *https://www.fcc.gov/edocs*. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to *FCC504@fcc.gov* or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

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

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

of the Commission's rules, 47 CFR 1.1204(a).

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

**List of Subjects in 47 CFR Part 73**

Television.

Federal Communications Commission.

**India Malcolm,**

*Assistant Bureau Chief for Management.*

**Proposed Rule**

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

## PART 73—RADIO BROADCAST SERVICE

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

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

**§ 73.622 [Amended]**

■ 2. In § 73.622(i), amend the table Post-Transition Table of DTV Allotments under Nevada by revising the entry for ''Las Vegas'' to read as follows:

**§ 73.622 Digital television table of allotments.**

* * * * *

(i) * * *

| Community | Channel No. |
|---|---|
| * * * * * | |
| **NEVADA** | |
| * * * * * | |
| Las Vegas ..... | 2, 7, * 11, 16, 22, 26, 29. |
| * * * * * | |

[FR Doc. 2021–12051 Filed 6–15–21; 8:45 am]

BILLING CODE 6712–01–P

# Notices

Federal Register
Vol. 86, No. 114
Wednesday, June 16, 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

### Office of the Secretary

**[Docket ID: USDA–2021–0006]**

### Identifying Barriers in USDA Programs and Services; Advancing Racial Justice and Equity and Support for Underserved Communities at USDA

**AGENCY:** Office of the Secretary, U.S. Department of Agriculture (USDA).

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Agriculture (USDA) is requesting input from the public on how it can advance racial justice and equity for underserved communities as part of its implementation of Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. USDA is requesting input to identify barriers that people of color and underserved communities and individuals may face in obtaining information from USDA. This includes accessing, enrolling, and participating in USDA programs and services, and engaging with USDA staff. USDA seeks to identify opportunities in current USDA policies, regulations, and guidance to address systemic inequities. USDA requests input on how to best engage external stakeholders and community members representing marginalized, vulnerable, or underserved communities in order to increase participation in USDA programs, services, committees and decision-making processes. In the months ahead, USDA will establish a Racial Equity Commission. The Racial Equity Commission will focus specifically on addressing systemic impediments to equity in USDA programs. USDA is asking for comments on any and all interactions with USDA programs. All comments will be aggregated, summarized, and shared with USDA Leadership and the Racial Equity Commission. The Racial Equity Commission may choose to seek additional input to meet its goals and objectives. USDA will continue to reach out to stakeholders and community members for the purposes of Executive Order 13985 and to fulfill its mission.

**DATES:** We will consider comments received by July 15, 2021.

**ADDRESSES:** We invite you to submit comments on this notice. You may submit comments, identified by Docket ID: FSA–2021–0006, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments. All public comments received are subject to the Freedom of Information Act and will be posted in their entirety at *https://www.regulations.gov,* including any personal or business confidential information provided. Do not include any information you would not like to be made publicly available.

Written responses should not exceed 20 pages, inclusive of a 1-page cover page as described below. Attachments or linked resources or documents are not included in the 20-page limit. Please respond concisely, in plain language, and in narrative format. You may respond to some or all of the questions listed in this document. Please ensure it is clear which question you are responding to. You may also include links to online material or interactive presentations but please ensure all links are publicly available. Each response should include:

- The name of the individual(s) and organization responding;
- The Area section(s) (1, 2, 3, 4, or 5) that your submission and materials support;
- A brief description of the responding individual(s) or organization's mission or areas of expertise, including any public-private partnerships with Federal, State, tribal, territorial, or local governments within the past 3 years that are relevant to this document; and
- A contact for questions or other follow-up on your response.

By responding to this document, each participant (individual, team, or legal entity) warrants that they are the sole author or owner of, or has the right to use, any copyrightable works that are included in the submission, that the works are wholly original (or is an improved version of an existing work that the participant has sufficient rights to use and improve), and that the submission does not infringe any copyright or any other rights of any third party of which the participant is aware.

Comments previously submitted during the Tribal Consultation on the Racial Equity Executive Order do not need to be resubmitted; your comments will be included in this record.

Participants will not be required to transfer their intellectual property rights to USDA, but participants must grant to the Federal government a nonexclusive license to apply, share, and use the materials that are included in the submission. To participate, each participant must warrant that there are no legal obstacles to providing the above-referenced nonexclusive licenses of participant rights to the Federal government.

Interested parties who respond to this document may be contacted for a follow-up strategic agency assessment dialogue, discussion, event, crowdsource campaign, or competition.

**FOR FURTHER INFORMATION CONTACT:** Issues regarding submission or questions can be sent to Liz Archuleta—phone number: 202–720–7095; or email: *EquityRFI@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, states:

> Equal opportunity is the bedrock of American democracy, and our diversity is one of our country's greatest strengths. But for too many, the American Dream remains out of reach. Entrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities. Our country faces converging economic, health, and climate crises that have exposed and exacerbated inequities, while a historic movement for justice has highlighted the unbearable human costs of systemic racism. Our Nation deserves an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face.
>
> It is therefore the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically

underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.

By advancing equity across the Federal Government, we can create opportunities for the improvement of communities that have been historically underserved, which benefits everyone. For example, an analysis shows that closing racial gaps in wages, housing credit, lending opportunities, and access to higher education would amount to an additional $5 trillion in gross domestic product in the American economy over the next 5 years. The Federal government's goal in advancing equity is to provide everyone with the opportunity to reach their full potential. Consistent with these aims, each agency must assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups. Such assessments will better equip agencies to develop policies and programs that deliver resources and benefits equitably to all.

**Definitions**

The term ''equity'' means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

The term ''underserved communities'' means populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of ''equity.''

**Required Assessment and Plan**

Within 200 days of the date of Executive Order 13985 (by August 8, 2021), agencies must submit to the Assistant to the President for Domestic Policy an assessment of the state of equity for underserved communities and individuals, including on the following points, for example:

- Barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in Federal programs;
- Barriers that underserved communities and individuals may face in participation in agency procurement and contracting opportunities;
- Barriers that underserved communities and individuals may face in participation in agency grant programs and other forms of financial assistance;
- Opportunities in current agency policies, regulations, and guidance to address affirmatively and equitably the underlying causes of systemic inequities in society;
- Opportunities in agency community engagement processes to engage with and empower marginalized, vulnerable, or underserved communities more directly to advance equitable policymaking; and
- The operational status and level of institutional resources available to agency offices or divisions responsible for advancing civil rights or required to serve underrepresented or disadvantaged communities.

Within one year of the date of Executive Order 13985 (by January 19, 2022), the head of each agency will develop a plan for addressing any barriers to full and equal participation in programs and procurement opportunities identified in its assessment. Such a plan could include establishing ongoing routines to assess and rectify gaps in full and equal participation in programs and procurement opportunities.

**Key Principles**

Advancing equity must be a core part of management and policy making processes. Achieving equity must go beyond delivering special projects or programs that focus on underserved communities. Equity must be a central component of the decision-making framework that all agency functions are routed through.

Successful equity work yields tangible changes that positively impact the lives of people in the United States. Equity is not just a set of values; it must also be a set of outcomes.

Equity benefits everyone. If we close the gaps in income, wealth, and financial security for families across the country, our economy will grow. It's up to all of us as leaders to carry this message, and to demonstrate that advancing equity is not a zero-sum game that benefits some communities at the expense of others.

**Customer Experience Questions**

USDA is requesting customer experience input on the following questions where applicable:

1. Have you applied for or accessed USDA programs and services in the past? If so, please describe your experience.

2. If you have not applied for or accessed USDA programs and services in the past, why not? What would have made it easier for you to apply or access USDA programs and services?

3. How can USDA, its cooperators, grantees, and partners, better share information with underserved stakeholders about our programs and services? What are the best ways to notify and engage underserved stakeholders about new programs and services or changes to existing services?

4. Describe your experience(s) interacting with USDA staff when trying to access USDA programs and services. How were they helpful? Are local USDA offices staffed sufficiently and do they provide good customer service? What are areas for improvement?

5. Are USDA agency websites helpful in providing useful information on programs and services, explaining how specific programs and services work, and explaining how applications for participation are considered? What are areas for improvement?

6. What are the barriers to applying for loan and grant programs? How can USDA make loan and grant processes easier to understand and more accessible to underserved groups?

7. Have you attended stakeholder meetings and informational sessions in the past? Describe when and how helpful and useful the information was including follow-up by USDA.

**General Questions**

USDA is also requesting input on the following general questions where applicable:

1. Have you experienced injustice, inequity or unfairness in one or more USDA programs? If so, which ones? Please explain the situation(s).

2. Have you had difficulty accessing one or more USDA programs? If so, which ones? Please explain the difficulty.

3. Did you experience problems with required USDA paperwork, the USDA internet sites, the attitudes of USDA workers, or the locations of USDA offices?

4. Are there USDA policies, practices, or programs that perpetuate systemic barriers to opportunities and benefits for people of color or other underserved groups? How can those programs be

modified, expanded, or made less complicated or streamlined, to deliver resources and benefits more equitably?

5. How can USDA establish and maintain connections to a wider and more diverse set of stakeholders representing underserved communities?

6. Please describe USDA programs or interactions that have worked well for underserved communities. What successful approaches to advancing justice and equity have been undertaken by USDA that you recommend be used as a model for other programs or areas?

7. Does USDA currently collect information, use forms, or require documentation that impede access to USDA programs or are not effective to achieve program objectives? If so, what are they and how can USDA revise them to reduce confusion or frustration, and increase equity in access to USDA programs?

8. Is there information you believe USDA currently collects that it does not need to achieve statutory or regulatory objectives?

9. Are there data-sharing activities in which USDA agencies should engage, so that repetitive collections of the same data do not occur from one USDA component to the next?

10. How can USDA use technology to improve customer service? Do you have suggestions on how technology or online services can help streamline and reduce regulatory or policy requirements? What are those technological programs or processes and how can USDA use them to achieve equity for all?

11. Are there sources of external data and metrics that USDA can use to evaluate the effects on underserved communities of USDA policies or regulations? If so, please identify or describe them.

12. What suggestions do you have for how USDA can effectively assess and measure its outreach and inclusion of underserved groups and individuals?

13. How can USDA remove or reduce barriers that underserved communities and individuals face when they participate or attempt to participate in agency procurement and contracting opportunities?

14. Have you made recommendations for improvement in the past to USDA? If so, please list or attach those recommendations.

**Civil Rights Compliant**

Information submitted through this document will not be processed as a civil rights complaint and will not be considered a complaint for determining whether a complaint was timely submitted.

To file a discrimination complaint on interactions with USDA, you can complete the form: *https://www.usda.gov/sites/default/files/documents/Complain_combined_6_8_12_508.pdf.* You may submit the discrimination complaint to USDA by any of the following methods:

*Mail:* U.S. Department of Agriculture, Director, Center for Civil Rights Enforcement, 1400 Independence Avenue SW, Washington, DC 20250–9410.

*Fax:* (202) 690–7442; or

*Email: program.intake@usda.gov.*

If you need any assistance completing the form, call the following phone numbers:

- (202) 260–1026 (Local),
- (866) 632–9992 (Toll-free Customer Service),
- (800) 877–8339 (Local or Federal relay), or
- (866) 377–8642 (Relay voice users).

**USDA Non-Discrimination Policy**

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA TARGET Center at (202) 720–2600 or 844–433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

**Elizabeth C. Archuleta,**

*Director, Office of Intergovernmental & External Affairs, U.S. Department of Agriculture.*

[FR Doc. 2021–12612 Filed 6–15–21; 8:45 am]

**BILLING CODE 3410–90–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2020–0044]**

### Removal of Japan From the List of Regions Declared Free of Classical Swine Fever

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that we removed Japan from the list of regions the Animal and Plant Health Inspection Service recognizes as free of classical swine fever (CSF). This action follows the detection of CSF in Japan. This action is necessary in order to inform the public and to prevent the introduction of CSF into the United States.

**DATES:** This action became effective on September 10, 2018.

**FOR FURTHER INFORMATION CONTACT:** Dr. Ingrid Kotowski, Regionalization Evaluation Services, Veterinary Services, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 855–7732; *AskRegionalization@usda.gov.*

**SUPPLEMENTARY INFORMATION:** The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent the introduction into the United States of various animal diseases, including classical swine fever (CSF). CSF is a highly contagious disease of wild and domestic swine that can spread rapidly in swine populations with extremely high rates of morbidity and mortality. A list of regions that the Animal and Plant Health Inspection Service (APHIS) has determined are free of CSF is maintained on the APHIS website at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-*

*animal-product-import-information/animal-health-status-of-regions/.*

That list is referenced in §§ 94.9(a)(1) and 94.10(a)(1) of the regulations. Section 94.9 contains requirements for the importation of pork and pork products from regions where CSF exists. Section 94.10 contains requirements for the importation of live swine from such regions.

Paragraphs (a)(2) of §§ 94.9 and 94.10 provide for the adding and removal of regions to or from the list of CSF-free regions. APHIS will add a region to the list after it conducts an evaluation of the region in accordance with 9 CFR 92.2 and finds that the disease is not present. APHIS will remove a region from the list upon determining that the disease exists in the region based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable. A region that was formerly on the list but that has been removed due to an outbreak may be returned to the list in accordance with the procedures for reestablishment of a region's disease-free status in § 92.4.

On September 9, 2018, the veterinary authority of Japan reported to the OIE the occurrence of CSF in that country. On September 10, 2018, APHIS removed Japan's CSF-free status on a provisional basis pending an epidemiological investigation and remedial measures. Due to the failure to control and eradicate the disease in Japan, on November 20, 2019, APHIS determined that this removal would not be reversible without a formal re-evaluation pursuant to § 92.4.

As a result of these determinations, the importation of pork and pork products and live swine from Japan is subject to the APHIS import restrictions in §§ 94.9 and 94.10, which are designed to mitigate risk of CSF introduction into the United States.

### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as a non-major rule, as defined by 5 U.S.C. 804(2).

**Authority:** 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 9th day of June 2021.

**Mark Davidson,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2021–12595 Filed 6–15–21; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

**[Docket #RBS–21–Business–0012]**

### Inviting Applications for the Rural Innovation Stronger Economy (RISE) Grant Program

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice of funding availability.

**SUMMARY:** This notice announces that the Rural Business-Cooperative Service (Agency) is accepting fiscal year (FY) 2021 applications for the Rural Innovation Stronger Economy (RISE) program. The program funding level for FY 2021 is a total of $10 million. The purpose of this program is to provide financial assistance to support job accelerator partnerships that improve the ability of distressed rural and energy communities to create high wage jobs, accelerate the formation of new businesses, and help rural communities identify and maximize local assets.

**DATES:** Completed applications must be submitted electronically by no later than 11:59 p.m. Eastern time, August 2, 2021, through *Grants.gov,* to be eligible for grant funding. Please review the *Grants.gov* website at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure that you are able to meet the electronic application deadline. Late applications are not eligible for funding under this notice and will not be evaluated.

**ADDRESSES:** You are encouraged to contact your USDA Rural Development State Office well in advance of the application deadline to discuss your project and ask any questions about the RISE program or application process. Contact information for State Offices can be found at *http://www.rd.usda.gov/contact-us/state-offices.*

Program guidance as well as an application template may be obtained at *http://www.rd.usda.gov/RISEgrant-program.* To submit an electronic application, follow the instructions for the RISE funding announcement located at *http://www.grants.gov.*

**FOR FURTHER INFORMATION CONTACT:** Will Dodson, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue, SW, Mail Stop-3226, Room 5160-South, Washington, DC 20250–3226, (202) 720–1400 or email *will.dodson@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Preface

As outlined in the Initial Report to the President on Empowering Workers Through Revitalizing Energy Communities, available at *https://netl.doe.gov/IWGInitialReport,* the Agency encourages energy communities to utilize the RISE program to support workforce development; identify and maximize local assets; spur job creation; and connect to regional opportunities, networks, and industry clusters.

To focus investments to areas for the largest opportunity for growth in prosperity, the Agency encourages applications that serve the smallest communities with the lowest incomes, with an emphasis on areas where at least 20 percent of the population is living in poverty, according to the American Community Survey data by census tracts.

#### Overview

*Federal Agency:* Rural Business-Cooperative Service.

*Funding Opportunity Title:* Rural Innovation Stronger Economy Grant Program.

*Announcement Type:* Initial Notice.

*Catalog of Federal Domestic Assistance Number:* 10.755

*Date:* Application Deadline. Electronic applications must be received and accepted by *http://www.grants.gov* no later than 11:59 p.m. Eastern time, August 2, 2021, or it will not be considered for funding.

The Application Template provides specific, detailed instructions for each item of a complete application. The Agency emphasizes the importance of including every item and strongly encourages applicants to follow the instructions carefully, using the examples and illustrations in the Application Template. Prior to official submission of applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are made prior to July 16, 2021. Agency contact information can be found in Section D of this document.

*Hemp related projects:* Please note that no assistance or funding from this grant can be provided to a hemp producer unless they have a valid license issued from an approved State, Tribal or Federal plan as defined by the Agriculture Improvement Act of 2018,

Public Law 115–334. Verification of valid hemp licenses will occur at the time of award.

The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. The Agency reserves the right to contact applicants to seek clarification on materials contained in the submitted application. See the Application Template for a full discussion of each item. For requirements of completed grant applications, refer to Section D of this document.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), USDA requested that the Office of Management and Budget (OMB) conduct an emergency review of a new information collection that contains the Information Collection and Recordkeeping requirements contained in this notice by May 28, 2021. In addition to the emergency clearance, the regular clearance process is initiated in the regulation publication (RIN 0570–AB06), which published in the issue June 15, 2021 issue of the **Federal Register**, to provide the public with the opportunity to comment under a full comment period. The information collection requirement contained in this notice is under the OMB Control Number 0570–0075.

*A. Program Description*

The RISE program is a new grant program authorized under section 6424 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334) (2018 Farm Bill) to help struggling communities by funding job accelerators in low-income rural communities. You are required to comply with the regulations for this program published at 7 CFR part 4284, subpart L, which is adopted by reference in this notice. Therefore, you should become familiar with these regulations. The primary objective of the RISE program is to support jobs accelerator partnerships to improve the ability of distressed rural and energy communities to create high wage jobs, accelerate the formation of new businesses, and help rural communities identify and maximize local assets. Grants are awarded on a competitive basis. The minimum award per grant is $500,000 and the maximum award amount per grant is $2,000,000. Grant funds may be used to pay for up to 80 percent of eligible project costs. Grant funds may be used to pay for costs directly related to the purchase or construction of an innovation center located in a rural area; costs directly related to operations of an innovation center including purchase of equipment, office supplies, and administrative costs including salaries directly related to the project; costs directly associated with support programs to be carried out at or in direct partnership with job accelerators; reasonable and customary travel expenses directly related to job accelerators and at rates in compliance with 2 CFR 200.474; utilities, operating expenses of the innovation center and job accelerator programs and associated programs; and administrative costs of the grantee not exceeding 10% of the grant amount for the duration of the project.

Definitions

The terms you need to understand are defined and published at 7 CFR 4284.1103. In addition, the terms ''rural'' and ''rural area,'' defined at section 343(a)(13) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)), are adopted by reference, and will be used for this program. The term ''you'' referenced throughout this notice should be understood to mean ''you'' the applicant.

*B. Federal Award Information*

*Type of Award:* Competitive Grant.
*Fiscal Year Funds:* FY 2020 and FY 2021.
*Total Funding:* $10,000,000.
*Minimum Award:* $500,000.
*Maximum Award:* $2,000,000.
*Anticipated Award Date:* September 15, 2021.

*C. Eligibility Information*

1. Eligibility

Applicants must meet all the following eligibility requirements. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further.

(1) Applicant Eligibility

To be considered an eligible applicant, you must be a rural jobs accelerator partnership formed on or after December 20, 2018, and meet the eligibility criteria found in 7 CFR 4282.1112 to apply for this program. The rural jobs accelerator partnership must include one or more representatives of the following:

(a) A state, Tribal or local government;

(b) A state, Tribal, or local government entity;

(c) A land-grant college or university or other institution of higher education, as defined in the Higher Education Act of 1965 (20 U.S.C. 1001);

(d) A rural non-profit cooperative; or,

(e) A private entity, which may include a business in an industry cluster, economic development or community development organization, financial institution including a community development financial institution, philanthropic organization, or labor organization.

(2) Lead Applicant Eligibility

The rural jobs accelerator partnership must also have a lead applicant who is responsible for the administration of the grant proceeds and activities. A lead applicant must be one of the following entities:

(a) A district organization;

(b) An Indian Tribe, or a political subdivision of an Indian Tribe, including a special purpose unit of an Indian Tribe, or a consortium of Indian Tribes;

(c) A state or a political subdivision of a state, including a special purpose unit of a State or local government engaged in economic development activities, or a consortium of political subdivisions;

(d) An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) or a consortium of institutions of higher education;

(e) A public or private nonprofit organization.

(3) Additional Eligibility Requirements

You must also meet the following requirements:

(a) An applicant is not eligible if they have been debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ''Debarment and Suspension.'' The Agency will check the System for Award Management (SAM) at the time of application and prior to funding any grant award to determine if the applicant has been debarred or suspended. In addition, an applicant will be considered ineligible for a grant due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court), is delinquent on the payment of Federal income taxes, or is delinquent on Federal debt. See 7 CFR 4284.6. The applicant must certify as part of the application that they do not have an outstanding judgment against them. The Agency will check the Do Not Pay System at the time of application and also prior to funding any grant award to verify this information.

(b) Any corporation that has been convicted of a felony criminal violation under any Federal law within the past 24 months or that has any unpaid

Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

(c) Applications will be deemed ineligible if the application includes any funding restrictions identified under Section D.6(a) and (b) of this notice. Inclusion of funding restrictions outlined in Section D.6(a) and (b) of this notice preclude the Agency from making a federal award.

(d) Applications will be deemed ineligible if the application is not complete in accordance with the requirements stated in Section C.3.

2. Cost Sharing or Matching

Your matching funds requirement is 20 percent of the total eligible project costs of any activity carried out using RISE grant funds. Additional information on matching funds is found at 7 CFR 4284.1114. When you calculate your matching funds requirement, please round up or down to whole dollars as appropriate. To calculate your matching funds requirement, multiply your total eligible project costs of each eligible activity by 0.20.

You must provide a written commitment of matching funds to verify that all matching funds are available during the grant period and provide this documentation with your application in accordance with requirements identified in Section D.2.(d)(5)(xii)(A) of this notice. If you are awarded a grant, additional verification documentation may be required to confirm the availability of matching funds for the duration of the grant term.

Matching funds must meet all of the following requirements:

(a) They must be spent on eligible expenses during the grant period.

(b) They must be from eligible sources.

(c) They must be spent in advance or as a pro-rata portion of grant funds being spent.

(d) They must be provided by either the applicant or a third party in the form of cash or an in-kind contribution.

(e) They cannot include other Federal grants unless provided by authorizing legislation.

(f) They cannot include cash or in-kind contributions donated outside of the grant period.

(g) They cannot include over-valued, in-kind contributions.

(h) They cannot include any project costs that are ineligible under the RISE program.

(i) They cannot include any project costs that are restricted or unallowable under 2 CFR part 200, subpart E, and the Federal Acquisition Regulation (for-profits) or successor regulation.

(j) They can include reasonable and customary travel expenses for staff delivering the RISE program if you have established written policies explaining how these costs are normally reimbursed, including rates. You must include an explanation of this policy in your application or the contributions will not be considered as eligible matching funds.

(k) You must be able to document and verify the number of hours worked and the value associated with any in-kind contribution being used to meet a matching funds requirement.

(l) In-kind contributions provided by individuals, businesses, or cooperatives which are being assisted by you cannot be provided for the direct benefit of their own projects as the Agency considers this to be a conflict of interest or the appearance of a conflict of interest.

3. Other Eligibility Requirements

(a) Completeness

Your application will not be considered for funding if it fails to meet all eligibility criteria by the application deadline or if it does not provide sufficient information to determine eligibility and scoring. You must include all the forms and proposal elements as discussed in the regulation and as clarified further in this notice in one package. Incomplete applications will not be reviewed by the Agency. For more information on what is required for a complete application, see 7 CFR 4284.1115.

(b) Purpose Eligibility

Your application must propose the establishment of an innovation center and/or costs directly related to operations of an innovation center and/or costs directly associated with support of programs to be carried out at or in direct partnership with job accelerators as outlined in 7 CFR 4284.1113. The applicant project outcome must accelerate the formation of new businesses with high-growth potential, improve the ability of rural businesses and distressed rural communities to create high-wage jobs, and strengthen rural regional economies. You must use project funds, including grant and matching funds, for eligible purposes only as outlined in 7 CFR 4284.114.

(c) Project Eligibility

All project activities must be for the benefit of communities, industries and residents located in a rural area, as defined in 7 CFR 4284.1103. The applicant is cautioned against taking any actions or incurring any obligations prior to the Agency completing the environmental review that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction. If the applicant takes any such actions or incurs any such obligations, it could result in project ineligibility.

Projects involving the construction of an innovation center as an eligible purpose are subject to the environmental requirements of 7 CFR part 1970, local building codes and all Federal, State, and local accessibility standards.

(d) Multiple Application Eligibility

Only one application can be submitted per applicant, who is defined as a lead applicant as found in 7 CFR 4282.1112(b). If two applications are submitted by the same lead applicant, both applications will be determined ineligible for funding.

(e) Grant Period

Your application must include no more than a four-year grant period, or it will not be considered for funding. The grant period should begin no earlier than October 1, 2021, and no later than January 1, 2022. Applications that request funds for a project with a performance period ending after January 1, 2026, will not be considered for funding. Projects must be completed within a four-year timeframe. Prior approval is needed from the Agency if you are awarded a grant and desire the grant period to begin earlier or later than previously discussed or approved.

The Agency may approve requests to extend the grant period for up to an additional two-year period at its discretion. Further guidance on grant period extensions will be provided in the award document.

(f) Satisfactory Progress

The lead applicant must be performing satisfactorily on any outstanding RISE award to be considered eligible for a new award as found in 7 CFR 4282.1110(a). Satisfactory performance includes being

up to date on all financial and performance reports as prescribed in the grant award, and current on tasks and timeframes for utilizing grant and matching funds as approved in the work plan and budget.

*D. Application and Submission Information*

1. Address To Request Application Package

For further information and program materials, you should contact the Rural Development National Office at *https://www.rd.usda.gov/programs-services/rural-innovation-stronger-economy-grants.* materials may also be obtained at *http://www.rd.usda.gov.*

2. Content and Form of Application Submission

Applications will be accepted electronically through *Grants.gov.* You are encouraged, but not required to utilize the application template found at *https://www.rd.usda.gov/programs-services/rural-innovation-stronger-economy-grants.*

(a) Electronic Submission

An optional-use Agency application template is available online at *http://www.rd.usda.gov.* To apply electronically, you must use the *Grants.gov* website at *http://www.Grants.gov.* You may not apply electronically in any way other than through *Grants.gov.*

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site, as well as the hours of operation.

To use *Grants.gov,* you must already have a DUNS number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov.*

You must submit all your application documents electronically through *Grants.gov.* Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After electronically applying through *Grants.gov,* you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

(b) Supplemental Information

Your application must contain all the required forms and proposal elements described in 7 CFR 4284.1115 and as otherwise clarified in this notice. If your application is incomplete, it is ineligible to compete for funds. Applications lacking sufficient information to determine eligibility and scoring criteria will be considered ineligible. Information submitted after the application deadline will not be accepted.

(c) Clarifications on Forms

Your DUNS number should be identified in the ''Organizational DUNS'' field on Standard Form (SF) 424, ''Application for Federal Assistance.'' You must also provide your SAM Commercial and Government Entity (CAGE) Code and expiration date under the applicant eligibility discussion in your proposal narrative. If you do not include the CAGE code and expiration date and the DUNS number in your application, it will not be considered for funding.

You can voluntarily fill out and submit the ''Survey on Ensuring Equal Opportunity for Applicants,'' as part of your application if you are a nonprofit organization.

(d) Clarifications on Proposal Elements

Applicants may only submit one RISE grant application each Federal Fiscal Year. There are no specific limitations on the number of pages or other formatting requirements of an application, but a complete application should be in a narrative form using a minimum of 11-point font and must consist of the following components:

(1) Rural jobs accelerator partnership information including the members and structure of the partnership, the date formalized, and the governance or leadership board. The information will identify the lead applicant and each partner's ties to the region, their roles in the delivery of the RISE program, and any history of previous collaboration between partners. The amount and source of anticipated matching funds will also be provided.

(2) Describe the geographic region to be served including the total population, economic characteristics of the region such as unemployment rates and income levels. Industry sectors, their status, size and economic contribution to the region and all communities including metropolitan statistical areas and nonmetro low income communities within the region should be identified. The availability and planned enhancements of broadband service and other assets of the region should also be identified. If the region to be served has a population of more than 50,000 inhabitants, the applicant must document why they believe the area is ''rural in character'' including, but not limited to, the area's population density, demographics, and topography and how the local economy is tied to a rural economic base.

(3) Identify the industry cluster(s) that will be prioritized by the rural jobs accelerator partnership with information on the firms and support industries in those clusters. Describe the status of the industry (as emerging, existing, or declining) any existing interconnection and networks within the industry cluster and describe participation and scale of small and disadvantaged businesses within the industry cluster. Describe the opportunities or potential of industry growth in the region and competitive advantages of the region and industry cluster should be highlighted along with opportunities within the industry for the creation of or upgrading to high wage jobs.

(4) An executive summary, project plan and scope of work must be provided with the applicant's strategy, activities, budget, goals and objectives for the use of RISE funds. The applicant should also provide information on the sustainability of the partnership and jobs accelerator at the conclusion of the RISE grant period.

(5) The lead applicant must be registered in the System for Award Management (SAM) and submit a complete application consisting of the elements specified in (b)(5)(i) through (b)(5)(xiii), as applicable, of this section.

(i) Form SF–424, ''Application for Federal Assistance.''

(ii) Form SF–424A, ''Budget Information—Non-Construction Programs,'' if applicable.

(iii) Form SF–424C, ''Budget Information—Construction Programs,'' if applicable.

(iv) Form SF–424D, ''Assurances—Construction Programs,'' if applicable.

(v) RD Form 400–1, ''Equal Opportunity Agreement,'' for construction projects only.

(vi) Identify the ethnicity, race, and gender characteristics of the lead applicant's leadership. This information is optional and is not a required component for a complete application.

(vii) Certification that the lead applicant is a legal entity in good standing (as applicable) and operating in accordance with the laws of the state(s) or Tribe where the applicant exists.

(viii) The lead applicant must identify whether or not the lead applicant has a known relationship or association with an Agency employee. If there is a known relationship, the lead applicant must identify each Agency employee with whom the lead applicant has a known relationship.

(ix) Readiness Demonstration, which shall be comprised of the following items:

(A) Description of readiness of all partners of the rural jobs accelerator partnership to contribute to the project including their ability to coordinate activities, finances, and outcomes of the project.

(B) Evidence of a formal agreement among partners of the rural jobs accelerator partnership for delivery of the RISE program.

(C) Evidence of demonstrated readiness in administering the RISE grant, if awarded, including demonstration of potential success in establishment of a jobs accelerator project, which targets an industry cluster and the initiatives of the RISE grant. The application should indicate when activities related to the expected outcomes will commence.

(D) Description of how the project will be marketed in the region and how the rural jobs accelerator partnership will capture any program impacts and success stories.

(E) Timeline describing the proposed tasks to be accomplished and the schedule for implementation of each task.

(x) Provide documentation of how the RISE project will impact the initiatives below, as applicable, including a brief description of how and when the initiative will be delivered.

(A) Linking rural communities and entrepreneurs to markets, networks, industry clusters, and other regional opportunities to support high wage job creation, new business formation, business expansion, and economic growth;

(B) Integrating small businesses into a supply chain;

(C) Creating or expanding commercialization activities for new business formation;

(D) Identifying and building assets in rural communities that are crucial to supporting regional economies;

(E) Facilitating the repatriation of high wage jobs to the United States;

(F) Supporting the deployment of innovative processes, technologies, and products;

(G) Enhancing the capacity of small businesses in regional industry clusters, including small and disadvantaged businesses;

(H) Increasing United States exports and business interaction with international buyers and suppliers;

(I) Developing the skills and expertise of local workforces, entrepreneurs, and institutional partners to meet the needs of employers and prepare workers for high wage jobs in the identified industry clusters, including the upskilling of incumbent workers; and

(J) Ensuring rural communities have the capacity and ability to carry out projects related to housing, community facilities, infrastructure, or community and economic development to support regional industry cluster growth.

(xi) Potential to produce high wage jobs and benefit rural small and disadvantaged businesses, including a description of the following:

(A) Describe how the project will develop the skills and expertise of the local workforce, entrepreneurs and institutional partners to meet the needs of employers and prepare high wage jobs in the targeted industry cluster(s), which may also include the upskilling of incumbent worker.

(B) Demonstrate how the project will benefit the skills and expertise of small and disadvantaged businesses, as applicable.

(C) Demonstrate any participation of higher education, applied research institutions, workforce development entities and community-based organizations, that are willing to partner with the project to provide workers with skills relevant to the industry cluster needs of the region, with an emphasis on the use of on-the-job training, classroom occupational training or incumbent worker training, as applicable.

(D) Demonstrate any participating investment organizations, venture development organizations, venture capital firms, revolving loan funders, angel investment groups, community lenders, community development financial institutions, rural business investment companies, small business companies (as defined in Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662)), philanthropic organizations, and other institutions focused on expanding access to capital, are committed partners in the job accelerator partnership and willing to potentially invest in projects emerging from the jobs accelerator.

(xii) Describe the targeted region, including the following information:

(A) Provide the latest Census Bureau information on the targeted region's median household income.

(B) Provide the latest Census Bureau information on the targeted region's educational attainment, specifically the percentage of the population who hold a bachelor's degree.

(C) Discuss how any direct career training will be provided to existing residents of the region (existing residents being those that live in the region at the time of application submission).

(D) Discuss any local support for the RISE project.

(E) Discuss the entrepreneurial commitment to the RISE project.

(F) Discuss any innovative processes and technologies to be utilized in the targeted industry cluster(s) of the RISE project.

(G) Discuss the initial and continuing capital investment in the RISE project.

(H) Discuss any demand for regional and global markets of the product and/or service provided by the targeted industry cluster.

(I) Discuss if the region consists of any areas or communities that qualify for federal initiatives.

(J) Elaborate on the current broadband service within the region and any plans to leverage the current broadband service or enhance broadband service in the region through the RISE project.

(xiii) Financial information, including the following:

(A) Identification of matching funds and other sources of funds for the project. Provide written commitments for matching funds and other sources of funds at the time the application is submitted.

(B) Current financial statements and a narrative description demonstrating financial feasibility and sustainability of the project, all of which demonstrate sufficient resources and expertise to undertake and complete the project and how the project will be sustained following completion.

(e) Upon receipt of a complete application, the Agency will determine if the applicant and project are eligible and whether the intended outcomes described meet the requirements of the RISE program. If the application is ineligible or not feasible, the Agency will inform the applicant in writing of the reasons for the Agency's determination and no further evaluation of the application will occur.

3. Submission Date and Time

*Explanation of Deadline:* Completed applications must be submitted electronically by no later than 11:59 p.m. Eastern Time, August 2, 2021, through *Grants.gov*, to be eligible for grant funding. Please review the *Grants.gov* website at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as

possible to ensure that you can meet the electronic application deadline. *Grants.gov* will not accept applications submitted after the deadline.

4. Intergovernmental Review of Applications

Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' does not apply to this program.

5. Funding Restrictions

(a) Project funds, including grant and matching funds, cannot be used for ineligible grant purposes (see 7 CFR 4284.1114(d)), 2 CFR part 200, subpart E, ''Cost Principles,'' and the most current Federal Acquisition Regulation (for-profits) or successor regulations.

(b) In addition, your application will not be considered for funding if it:

(i) Focuses assistance on only one business; or

(ii) Requests less than the minimum grant amount or more than the maximum grant amount.

6. Other Submission Requirements

(a) You should not submit your application in more than one format or in more than one submission. You must submit your application electronically. Note that we cannot accept applications through mail or courier delivery, in-person delivery, email, or fax. To submit an application electronically, you must follow the instruction for this funding announcement at *http://www.grants.gov.* A password is not required to access the website.

(b) National Environmental Policy Act

All recipients under this notice are subject to the requirements of 7 CFR part 1970. However, technical assistance awards under this notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation.

The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

(c) Civil Rights Compliance Requirements

All grants made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA (7 CFR part 15, subpart A) and Section 504 of the Rehabilitation Act of 1973.

*E. Application Review Information*

The National Office will review applications to determine if they are eligible for assistance based on requirements in 7 CFR part 4284, subpart L, this notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this notice. Applications will be funded in rank order until the funding limitation has been reached. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion.

1. Scoring Criteria

Scoring criteria will follow criteria published at 7 CFR 4284.1117. The regulatory and statutory criteria are clarified and supplemented below.

The Agency will score each complete and eligible RISE application using the criteria specified in paragraphs (a) through (g) of this section with a maximum score of 100 points possible. Points will be allowed only for factors indicated by well documented, reasonable plans which, in the opinion of the Agency, provide assurance that the items have a high probability of being accomplished. Points will be awarded at the discretion of the Agency to scoring criteria with a minimum and maximum number of points available. Applicants that demonstrate the experience or ability to deliver the stated criteria will be awarded higher points in that criteria.

(a) Demonstrated readiness. The rural jobs accelerator partnership demonstrates readiness in administering the RISE grant successfully and shows strong documentation indicating the potential for success in establishing a jobs accelerator project which targets an industry cluster and the initiative(s) of the RISE grant program. Points are awarded on a scale of 0 to 10 with a maximum of 10 points being awarded.

(b) Targeted initiatives. A maximum of 15 points will be awarded for this criterion based on meeting the targeted initiatives as stated in § 4284.1115(b)(2)(xi) of this part with action narratives outlined in the application on how and when the initiatives will be delivered. More points will be awarded for reasonable initiatives that can be delivered within 12 months of the grant award and for those projects leveraging improvements in high-speed broadband service to the region.

(c) Project support. Points will be awarded for the strength of local support of the RISE project and entrepreneurial commitment. A maximum of 15 points can be awarded for application materials that indicate the strength of support for the RISE project. Points will be awarded from the partnership's demonstration of its sources of funding, personnel and technical resources committed to the project, and a focus on the inclusion of institutional partners expanding access to capital and willingness to potentially invest in projects emerging from the jobs accelerator. Points shall also be awarded for demonstrated resources that will sustain the project beyond the term of the RISE grant period.

(d) Targeted region. A maximum of 20 points will be awarded for this criterion based on the region's demographics according to the latest Census Bureau information. The applicant must provide adequate documentation to the latest Census Bureau information to receive points.

(1) If the targeted region has a median household income of:

(i) 50% or less of state median household income; 5 points will be awarded;

(ii) Over 50% and up to 80% of state median household income; 3 points will be awarded.

(2) If the targeted region residents have the educational attainment of a bachelor's degree by:

(i) 10% or less of the population; 5 points will be awarded;

(ii) Over 10% and up to 30% of the population; 3 points will be awarded.

(3) Existing residents of the targeted region will receive direct career training for new employment or upscaling to a high wage job; 5 points will be awarded.

(4) If the identified region has fewer than 50,000 residents according to the most recent decennial census; 5 points will be awarded.

(e) RISE grant funds requested. A maximum of 10 points will be awarded for this criterion if:

(i) The RISE grant request is for $500,000 to $750,000; 10 points will be awarded.

(ii) The RISE grant request is for over $750,000 and up to $1,000,000; 5 points will be awarded.

(f) Regional impact. Points are awarded on a scale of 0 to 5 points for each category, with a total maximum of 20 points being awarded for this criterion. To receive points, the applicant must provide documentation to warrant strength on the following criteria, with points awarded for each:

(i) Targeted industry(ies) in the region is classified as an emerging industry.

(ii) Applicant demonstrates that the targeted industry(ies) in the region hold a competitive advantage or will enhance its competitive advantage through the RISE project.

(iii) Applicant demonstrates that the industry provides significant support of regional assets, including broadband, and provides community and economic development support within the region.

(iv) The RISE project's forecasted outcomes align with RISE objectives.

(v) The RISE project will target support to existing industry(ies), whose significance in the region may be stagnant or on the decline but can be enhanced through outcomes of the RISE project.

(g) Administrator points. A maximum of 10 points will be awarded, with justification, at the discretion of the Agency Administrator. The Administrator may award points to an application by a region comprised primarily of distressed communities with high concentrations of employment in coal, oil and gas industries, and coal-fired generation facilities transitioning away from fossil fueled energy production. A list of qualifying communities, which includes both county and zip code, can be found at *http://www.rd.usda.gov/programs-services/rural-innovation-stronger-economy-grants.* The Administrator may also award points to an application to achieve geographic distribution of RISE grant awards across the maximum number of States and diversity of industries targeted.

2. Review and Selection Process

The National Office will review applications to determine if they are eligible for assistance based on requirements in 7 CFR part 4284, subpart L, this notice, and other applicable Federal regulations. If determined eligible, your application will be scored by a panel of USDA employees in accordance with the point allocation specified in this notice. The Administrator may choose to award up to 10 Administrator priority points based on criterion (g) in section E.1. of this notice. These points will be added to the cumulative score for a total possible score of 100. Applications will be funded in highest ranking order until the available funding is exhausted. Applications that cannot be fully funded may be offered partial funding at the Agency's discretion. If your application is evaluated, but not funded, it will not be carried forward into the next competition. Successful applicants must comply with requirements identified in Section F, Federal Award Administration Information.

*F. Federal Award Administration Information*

1. Federal Award Notices

If you are selected for funding, you will receive a signed notice of Federal award by postal or electronic mail from the State Office where your application was submitted, containing instructions and requirements necessary to proceed with execution and performance of the award. You must comply with all applicable statutes, regulations, and notice requirements before the grant award will be funded.

If you are not selected for funding, you will be notified in writing via postal or electronic mail and informed of any review and appeal rights. See 7 CFR part 11 for USDA National Appeals Division procedures. There will be no available funds for successful appellants once all funds available under this notice are awarded and obligated.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in 7 CFR part 4284, subpart L; the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170; and 48 CFR 31.2, and successor regulations to these parts.

In addition, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)).

The following additional requirements apply to grantees selected for awards within this program:

(a) Execution of an Agency-approved financial assistance agreement; and

(b) Acceptance of a written letter of conditions; and submission of the following Agency forms:

(1) Form RD 1940–1, ''Request for Obligation of Funds.''

(2) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(3) Form RD 400–1 for construction projects.

3. Reporting

After grant approval and through grant completion, you will be required to provide an SF–425, ''Federal Financial Report,'' and a performance report on a semiannual basis (due 30 working days after the end of the semiannual period) for the first two years, and then annually thereafter, with the first report submitted no later than six months after receiving a grant under this section The project performance reports shall include the following:

(a) All activities funded with the grant funds.

(b) Evaluation of progress towards strategic initiatives identified in the application for the grant. Discuss any issues which may have occurred.

(c) Measurement of progress using performance measures during the project period, which may include the following:

(1) High wage jobs created;

(2) High wage jobs retained;

(3) Private investment leveraged;

(4) Businesses improved;

(5) Businesses retained;

(6) New business formations;

(7) New products, prototypes and/or services commercialized;

(8) Improvement of the value of existing products or services under development;

(9) Regional collaboration as measured by the number of organizations actively engaged in the industry cluster and/or the number of symposia held by the industry cluster, including organizations that are not located in the immediate region defined by the partnership and/or the number of further cooperative agreements;

(10) Number of educations and training activities relating to the innovation;

(11) Number of innovative products, services and/or prototypes launched;

(12) Number of jobs relocated from outside of the United States to the region;

(13) Amount and number of new equity investments in industry cluster firms;

(14) Amount and number of new loans to industry cluster firms;

(15) Dollar increase in exports resulting from the project activities;

(16) Percentage of employees for which training was provided;

(17) Improvement in sales of participating businesses;

(18) Improvement in wages paid at participating businesses;

(19) Improvement in income of participating workers;

(20) Any measure determined appropriate by the Agency; and

(21) Broadband development in the targeted region.

(d) Initiatives and timetable established for the next reporting period.

(e) Any additional information as found in the annual **Federal Register** notice.

*G. Agency Contacts*

If you have questions about this notice, please consult the RISE program web page at *https://www.rd.usda.gov/RISE* where program guidance as well as application and matching funds templates may be obtained. If you want

to submit an electronic application, follow the instructions for the RISE funding announcement located at *https://www.grants.gov.* You may also contact National Office Program Management Division: RISE Program Lead, *cpgrants@usda.gov* or call the main line at 202–720–1400.

*H. Nondiscrimination Statement*

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Email: OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

**Mark Brodziski,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2021–12335 Filed 6–14–21; 11:15 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Direct Investment Surveys: BE–15, Annual Survey of Foreign Direct Investment in the United States

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 16, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Ricardo Limes, Chief, Multinational Operations Branch (BE–69), Bureau of Economic Analysis, U.S. Department of Commerce, by email to *Ricardo.limes@bea.gov* and *PRAcomments@doc.gov.* Please reference OMB Control Number 0608–0034 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Ricardo Limes, Chief, Multinational Operations Branch (BE–69), Bureau of Economic Analysis; via phone at (301) 278–9659; or via email at *Ricardo.Limes@bea.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The Annual Survey of Foreign Direct Investment in the United States (BE–15) obtains sample data on the financial structure and operations of foreign-owned U.S. business enterprises. The data are needed to provide reliable, useful, and timely measures of foreign direct investment in the United States to assess its impact on the U.S. economy. The sample data are used to derive universe estimates in non-benchmark years from similar data reported in the BE–12 benchmark survey, which is conducted every five years. The data collected include balance sheets; income statements; property, plant, and equipment; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity for the U.S. operations. In addition to these national data, several data items are collected by state, including employment and property, plant, and equipment.

The Bureau of Economic Analysis (BEA) is not proposing any changes to the BE–15 survey.

#### II. Method of Collection

BEA contacts potential respondents by mail in March of each year; responses covering a reporting company's fiscal year ending during the previous calendar year are due by May 31 (or by June 30 for respondents that file using BEA's eFile system). Reports are required from each U.S. business enterprise in which a foreign person has at least 10 percent of the voting stock in an incorporated business enterprise, or an equivalent interest in an unincorporated business enterprise, and that meets the additional conditions detailed in the BE–15 forms and instructions. Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

BEA offers electronic filing through its eFile system for use in reporting on the BE–15 annual survey forms. In addition, BEA posts all its survey forms and reporting instructions on its website (*www.bea.gov/fdi*). These may be downloaded, completed, printed, and submitted via fax or mail.

Potential respondents of the BE–15 are selected from those U.S. business enterprises that were required to report on the 2017 BE–12, Benchmark Survey of Foreign Direct Investment in the United States, along with those U.S. business enterprises that subsequently entered the direct investment universe. The BE–15 is a sample survey; universe estimates are developed from the reported sample data.

#### III. Data

*OMB Control Number:* 0608–0034.

*Form Number:* BE–15.

*Type of Review:* Regular submission, reinstatement without change.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 6,600 annually, of which approximately 3,300 file A forms, 1,600 file B forms, 1,200 file C forms, and 500 file Claim for Exemption forms.

*Estimated Total Annual Burden Hours:* 156,875 hours. Total annual burden is calculated by multiplying the estimated number of submissions of each form by the average hourly burden per form, which is 44.75 hours for the A form, 3.75 hours for the B form, 2.25 hours for the C form, and 1 hour for the Claim for Exemption form.

*Estimated Time per Respondent:* 23.8 hours per respondent (156,875 hours/6,600 respondents) is the average but may vary considerably among respondents because of differences in company size and complexity.

*Estimated Total Annual Cost to Public:* $0.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

### IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

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

[FR Doc. 2021–12705 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Direct Investment Surveys: BE–11, Annual Survey of U.S. Direct Investment Abroad

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 16, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Ricardo Limes, Chief, Multinational Operations Branch, Bureau of Economic Analysis, U.S. Department of Commerce, by email to *Ricardo.limes@bea.gov* and *PRAcomments@doc.gov*. Please reference OMB Control Number 0608–0053 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Ricardo Limes, Chief, Multinational Operations Branch, Bureau of Economic Analysis, U.S. Department of Commerce; via phone at (301) 278–9659; or via email at *Ricardo.Limes@bea.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Annual Survey of U.S. Direct Investment Abroad (BE–11) obtains sample data on the financial structure and operations of U.S. parents and their foreign affiliates. The data are needed to provide reliable, useful, and timely measures of U.S. direct investment abroad to assess its impact on the U.S. and foreign economies. The sample data are used to derive universe estimates in non-benchmark years from similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is conducted every five years. The data collected include balance sheets; income statements; property, plant, and equipment; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity.

The Bureau of Economic Analysis (BEA) is not proposing any changes to the BE–11 survey.

### II. Method of Collection

BEA contacts potential respondents by mail in March of each year; responses covering a reporting company's fiscal year ending during the previous calendar year are due by May 31. Reports are required from each U.S. person that has a direct and/or indirect ownership interest of at least 10 percent of the voting stock in an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, and that meets the additional conditions detailed in the BE–11 forms and instructions. Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

BEA offers electronic filing through its eFile system for use in reporting on the BE–11 annual survey forms. In addition, BEA posts all its survey forms and reporting instructions on its website (*www.bea.gov/dia*). These may be downloaded, completed, printed, and submitted via fax or mail.

Potential respondents of the BE–11 are selected from those U.S. parents that reported owning foreign business enterprises in the 2019 BE–10, Benchmark Survey of U.S. Direct Investment Abroad, along with entities that subsequently entered the direct investment universe. The BE–11 is a sample survey; universe estimates are developed from the reported sample data.

### III. Data

*OMB Control Number:* 0608–0053.

*Form Number:* BE–11.

*Type of Review:* Regular submission, reinstatement without change.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 3,500 respondents (U.S. parents). A complete response includes a BE–11 A form for the U.S. parent's domestic operation and one or more BE–11 B, C, or D forms for its foreign affiliates that meet the BE–11 survey requirements. BEA estimates that U.S. parents will submit 3,500 A forms, 24,000 B forms,

1,900 C forms, 100 D forms, and 500 Claim for Exemption forms.

*Estimated Total Annual Burden Hours:* 316,900 hours. Total annual burden is calculated by multiplying the estimated number of submissions of each form by the average hourly burden per form, which is 7 hours for the A form, 12 hours for the B form, 2 hours for the C form, 1 hour for the D form, and 1 hour for the Claim for Exemption form.

*Estimated Time per Respondent:* 90.5 hours per respondent (316,900 hours/3,500 U.S. parents) is the average but may vary considerably among respondents because of differences in company structure, complexity, and the number of foreign affiliates each U.S. parent must report.

*Estimated Total Annual Cost to Public:* $0.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

**IV. Request for Comments**

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

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

[FR Doc. 2021–12719 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Civil Nuclear Trade Advisory Committee

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice of an open meeting.

**SUMMARY:** This notice sets forth the schedule and proposed topics for a meeting of the Civil Nuclear Trade Advisory Committee (CINTAC).

**DATES:** The meeting is scheduled for Wednesday, June 30, 2021, from 9:00 a.m. to 4:00 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register to participate, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Friday, June 25, 2021.

**ADDRESSES:** The meeting will be held virtually via Microsoft Teams. Requests to register to participate (including to speak or for auxiliary aids) and any written comments should be submitted via email to Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration, at *jonathan.chesebro@trade.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Jonathan Chesebro, Office of Energy & Environmental Industries, International Trade Administration (Phone: 202–482–1297; email: *jonathan.chesebro@trade.gov*).

**SUPPLEMENTARY INFORMATION:**

*Background:* The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable U.S. laws and regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

The Department of Commerce renewed the CINTAC charter on August 5, 2020. This meeting is being convened under the seventh charter of the CINTAC.

On June 30, 2021, the CINTAC will hold the first meeting of its current charter term. The Committee, with officials from the U.S. Department of Commerce and other agencies, will discuss major issues affecting the competitiveness of the U.S. civil nuclear energy industry, determine subcommittee structure, and provide consultation on CINTAC leadership. An agenda will be made available by June 25, 2021 upon request to Mr. Jonathan Chesebro.

Members of the public wishing to attend the public session of the meeting must notify Mr. Chesebro at the contact information above by 5:00 p.m. EDT on Friday, June 25, 2021 in order to pre-register to participate. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted but may not be possible to fill. A limited amount of time will be available for brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. Individuals wishing to reserve speaking time during the meeting must contact Mr. Chesebro and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5:00 p.m. EDT on Friday, June 25, 2021. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers.

Any member of the public may submit written comments concerning the CINTAC's affairs at any time before or after the meeting. Comments may be submitted to Mr. Jonathan Chesebro at *Jonathan.chesebro@trade.gov.* For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EDT on Friday, June 25, 2021. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

Dated: June 10, 2021.

**Man Cho,**

*Deputy Director, Office of Energy and Environmental Industries.*

[FR Doc. 2021–12602 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### U.S. Department of Commerce Trade Finance Advisory Council

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

**ACTION:** Notice of an open meeting.

**SUMMARY:** The U.S. Department of Commerce Trade Finance Advisory Council (TFAC or the Council) will hold a virtual meeting on Tuesday, July 13, 2021. The meeting is open to the public with registration instructions provided below.

**DATES:** Tuesday, July 13, 2021, from approximately 12:00 p.m. to 2:30 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Thursday, July 8, 2021. Registration, comments, and any auxiliary aid requests should be submitted via email to *Patrick.Zimet@trade.gov.*

**ADDRESSES:** The meeting will be held virtually via WebEx video conferencing.

**FOR FURTHER INFORMATION CONTACT:** Patrick Zimet, Designated Federal Officer, Office of Finance and Insurance Industries (OFII), International Trade Administration, U.S. Department of Commerce at (202) 306–9474; email: *Patrick.Zimet@trade.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

The TFAC was originally chartered on August 11, 2016, pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App., and was most recently re-chartered on August 7, 2020. The TFAC serves as the principal advisory body to the Secretary of Commerce on policy matters relating to access to trade finance for U.S. exporters, including small- and medium-sized enterprises, and their foreign buyers. The TFAC is the sole mechanism by which the Department of Commerce (the Department) convenes private sector stakeholders to identify and develop consensus-based solutions to trade finance challenges. The Council is comprised of a diverse group of stakeholders from the trade finance industry and the U.S. exporting community, as well as experts from academia and public policy organizations.

On Tuesday, July 13, 2021, the TFAC will hold the first meeting of its 2020–2022 charter term. During the meeting, members will discuss with officials from the Department of Commerce and other agencies current challenges and opportunities to increase access to export financing resources for U.S. exporters. They will also establish priorities, the subcommittees' structure, and milestones for the successful development of recommendations.

Meeting minutes will be available within 90 days of the meeting upon request or on the TFAC's website at *https://www.trade.gov/about-us/trade-finance-advisory-council-tfac.*

#### Public Participation

The meeting will be open to the public and there will be limited time permitted for public comments. Members of the public seeking to attend the meeting, or for consideration of any written comments, are required to register in advance by the deadline identified under the **DATES** caption. Requests for participation at the meeting or for sign language interpretation and other auxiliary aids should be submitted electronically to *TFAC@trade.gov.* Last minute requests will be accepted but may not be possible to accommodate.

Members of the public may submit written comments concerning TFAC affairs at any time before or after a meeting. Comments may be submitted to Patrick Zimet, at the contact information indicated above. All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure.

**Alysha Taylor,**

*Sr. Advisor, Office of the Deputy Assistant Secretary for Services.*

[FR Doc. 2021–12645 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

**[Docket Number: 210608–0123]**

### Promoting Access to Voting

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Request for information.

**SUMMARY:** Based on the requirements of E.O. 14019, Promoting Access to Voting, the National Institute of Standards and Technology (NIST) is seeking information about barriers to private and independent voting for people with disabilities. NIST, in consultation with the Department of Justice, the Election Assistance Commission, and other agencies, as appropriate, will analyze barriers, including access to voter registration, voting technology, voting by mail, polling locations, and poll worker training. Responses to this Request for Information (RFI) will inform NIST's development of recommendations.

**DATES:** Comments must be received by 5:00 p.m. Eastern time on July 16, 2021. Written comments in response to the RFI should be submitted according to the instructions in the **ADDRESSES** and **SUPPLEMENTARY INFORMATION** sections below. Submissions received after that date may not be considered.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Electronic submission:* Submit electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov* and enter NIST–2021–0003 in the search field,

2. Click the ''Comment Now!'' icon, complete the required fields, and

3. Enter or attach your comments.

- *Email:* Comments in electronic form may also be sent to *pva-eo@list.nist.gov* in any of the following formats: HTML; ASCII; Word; RTF; or PDF.

Please submit comments only and include your name, organization's name (if any), and cite ''Promoting Access to Voting'' in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** For questions about this RFI contact: Kevin Mangold, NIST, at (301) 975–5628, or email *Kevin.Mangold@nist.gov.* Please direct media inquiries to NIST's Office of Public Affairs at (301) 975–2762. Users of telecommunication devices for the deaf, or a text telephone, may call the Federal Relay Service, toll free at 1–800–877–8339.

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, NIST will make the RFI available in alternate formats, such as Braille or large print, upon request by persons with disabilities.

**SUPPLEMENTARY INFORMATION:** As stated in Executive Order 14019, Promoting Access to Voting,[1] the right to vote is the foundation of American democracy. Under section 7 of Executive Order 14019, (Ensuring Equal Access for Voters with Disabilities), NIST is directed to evaluate the steps needed to ensure that the online Federal Voter Registration Form is accessible to people with disabilities.

This RFI outlines the information NIST is seeking from the public to inform the development of recommendations regarding both the Federal Voter Registration Form and other barriers it has identified that prevent people with disabilities from exercising their fundamental rights and the ability to vote privately and independently.

**Request for Information**

The following statements are not intended to limit the topics that may be addressed. Responses may include any topic believed to have implications for the development of recommendations to promoting access to voting for people with disabilities, regardless of whether the topic is included in this document. All relevant responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this RFI and set forth below will be considered.

Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. NIST reserves the right to publish relevant comments publicly, unedited and in their entirety. All relevant comments received in response to the RFI will be made publicly available at *https://www.nist.gov/itl/pva* and at regulations.gov.

Personally identifiable information (PII), such as street addresses, phone numbers, account numbers or Social Security numbers, or names of other individuals, should not be included. NIST asks commenters to avoid including PII as NIST has no plans to redact PII from comments. Do not submit confidential business information, or otherwise sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be considered. NIST requests that commenters, to the best of their ability, only submit attachments that are accessible to people who rely upon assistive technology. A good resource for document accessibility can be found at: *section508.gov/create/documents.*

NIST is seeking the following information from voting technology vendors, election officials, persons with disabilities, disability advocacy groups, assistive technology vendors and professionals, non-partisan voting promotion groups, and other key stakeholders for the purpose of gathering information to foster greater voter access for people with disabilities:

1. Describe concerns regarding accessing the right to vote privately and independently for people with disabilities.
2. Describe effective strategies, techniques, and technologies for addressing the barriers faced by voters with disabilities throughout the voting process.
3. Describe barriers that people with disabilities encounter in getting useful information about the voting process.
4. Describe barriers that people with disabilities encounter with ballots, and in getting useful information about the items on the ballot.
5. Provide recommendations for improving voter access for people with disabilities.
6. Identify what has had the most impact enabling people with disabilities to vote privately and independently.
7. Identify gaps that remain in making voting accessible to people with disabilities.
8. Describe barriers that people with disabilities encounter with completing online forms for the voting process.
9. Describe barriers that people with disabilities encounter in getting useful information about their eligibility to vote.
10. Describe barriers that people with disabilities encounter with registering to vote.
11. Describe barriers that people with disabilities encounter using technology for the registration or voting process, whether online, in person, or via mail.
12. Describe the availability of accessible voting equipment.
13. Describe barriers that people with disabilities encounter with voting by mail.
14. Describe security considerations relevant to existing and potential technologies used by people with disabilities in the voting process.
15. Describe barriers that people with disabilities face at polling locations.
16. Describe the accessibility of polling places.
17. Identify areas where poll worker training can address barriers experienced by people with disabilities.
18. Identify areas where clearer or better policies can address barriers experienced by people with disabilities.
19. Describe any barriers that people with disabilities face to voting that disproportionately impact communities of color, persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.
20. Of the concerns and barriers noted, identify the most serious and impactful barriers faced by voters with disabilities throughout the voting process.

**Authority:** Exec. Order No. 14019, Promoting Access to Voting, 86 FR 13623 (Mar. 7, 2021).

**Alicia Chambers,**

*NIST Executive Secretariat.*

[FR Doc. 2021–12619 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–13–P**

[1] Exec. Order No. 14019, Promoting Access to Voting, 86 FR 13623 (Mar. 7, 2021).

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB127]**

### Fishing Capacity Reduction Program for the Southeast Alaska Purse Seine Salmon Fishery

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

**ACTION:** Notice that the 2021 season fee rates will not change.

**SUMMARY:** NMFS performs an annual evaluation of the Southeast Alaska Purse Seine Salmon Fishing Capacity Reduction (Buyback) Loans. Our analysis reveals Loan A (or BBSA–001A) is currently ahead of schedule and Loan B (or BBSA–001B) is 2 years, or approximately $410,000, behind its scheduled amortization. Due to the impact of the Covid–19 pandemic, NMFS has determined it is in the best interest of the fishery to keep the annual Buyback fee rates for both Loan A and Loan B at 1 percent for 2021. Maintaining the current fee rates will minimally impact Loan A and Loan B will receive approximately $30,000 more than the scheduled annual amortized amount. The 2021 fishing season runs from June 1, 2021 through December 31, 2021.

**DATES:** The Buyback Loan A and Loan B program fee rates will remain at 1 percent beginning with landings on June 1, 2021. The first due date for fee payments at these rates will be July 15, 2021.

**ADDRESSES:** Send questions about this notice to Elaine Saiz, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway—13th Floor, Silver Spring, MD 20910–3282.

**FOR FURTHER INFORMATION CONTACT:** Elaine Saiz, (301) 427–8752.

**SUPPLEMENTARY INFORMATION:**

**I. Purpose**

The purpose of this notice is to announce the continuance of the current fee rates for the reduction fishery in accordance with the framework rule's 50 CFR 600.1013(b). Section 600.1013(b) directs NMFS to recalculate the fee to a rate that will be reasonably necessary to ensure reduction loan repayment within the specified 40-year term.

For the 2020 fishing season, the fee rate for both Loan A and Loan B was 1 percent of the landed value and any subsequent bonus payment. For the 2021 fishing season, the fee rate will remain unchanged at 1 percent for both Loan A and Loan B. A letter was previously sent by mail informing all Buyback permit holders and buyers that the rates would remain at 1 percent for each loan in the 2021 season. Fish buyers may continue to use *Pay.gov* to disburse collected fee deposits at: *http://www.pay.gov/paygov/.* Please visit the NOAA Fisheries website for additional information at: *https://www.fisheries.noaa.gov/alaska/funding-and-financial-services/southeast-alaska-purse-seine-salmon-fishery-buyback-program.*

**II. Notice**

The fee rates for the Buyback Loans A and B are effective June 1, 2021.

Fish sellers and fish buyers must pay and collect the fee in the manner set out in 50 CFR 600.1107 and the framework rule. Consequently, all harvesters and fish buyers should read subpart L to § 600.1013 to understand how fish harvesters must pay and fish buyers must collect the fee.

**Authority:** 16 U.S.C. 1861 *et seq.*; Pub. L. 108–447.

Dated: June 8, 2021.

**Brian T. Pawlak,**

*Chief Financial Officer/Chief Administrative Officer, Director, Office of Management and Budget, National Marine Fisheries Service.*

[FR Doc. 2021–12667 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Public Meeting of the National Sea Grant Advisory Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research (OAR), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Sea Grant Advisory Board (Board), a Federal Advisory Committee. Board members will discuss and provide advice on the National Sea Grant College Program (Sea Grant) in the areas of program evaluation, strategic planning, education and extension, science and technology programs, and other matters as described in the agenda found on the Sea Grant website. For more information on this Federal Advisory Committee please visit the Federal Advisory Committee database: *https://www.facadatabase.gov/FACA/FACAPublicPage.*

**DATES:** The announced meeting is scheduled for Monday July 12, 2021 from 1:00 p.m.–5:00 p.m. Eastern Daylight Time (EDT).

**ADDRESSES:** The meeting will be held virtually only. For more information and for virtual access see below in the ''Contact Information'' section.

*Status:* The meeting will be open to public participation with a 15-minute public comment period on Monday, July 12 from 1:05 p.m.–1:20 p.m. Eastern Time. (Check agenda using the link in the Matters to be Considered section to confirm time.) The Board expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Donna Brown by Wednesday, July 7, 2021 to provide sufficient time for Board review. Written comments received after the deadline will be distributed to the Board, but may not be reviewed prior to the meeting date.

**FOR FURTHER INFORMATION CONTACT:** For any questions concerning the meeting, please contact Ms. Donna Brown, National Sea Grant College Program, Phone Number: 301–734–1088; Email: *oar.sg-feedback@noaa.gov*). To attend via webinar, please R.S.V.P to Donna Brown (contact information above) by Wednesday, July 7, 2021.

*Special Accommodations:* The Board meeting is virtually accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Donna Brown by Wednesday, July 7, 2021.

**SUPPLEMENTARY INFORMATION:** The Board, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128). The Board advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

*Matters To Be Considered:* Board members will discuss and vote on three decisional matters—Board Executive Committee Nomination Membership, Evaluation Committee Independent Review Panel report and recommendations, and Resilience and Social Justice Exploratory Subcommittee charge and membership. *http://seagrant.noaa.gov/WhoWeAre/Leadership/NationalSeaGrantAdvisoryBoard/UpcomingAdvisoryBoardMeetings.aspx.*

**Eric Locklear,**

*Acting Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2021–12648 Filed 6–15–21; 8:45 am]

**BILLING CODE 3510–KA–P**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Notice of Intent To Grant a Partially Exclusive Patent License

**AGENCY:** Department of the Air Force, Department of Defense.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the Bayh-Dole Act and implementing regulations, the United States Air Force (Air Force) is issuing this notice of intent to grant a partially exclusive patent license agreement with respect to the field of smart locked devices in wireless networks to Parcell Company, a C-Corporation duly organized, validly existing, and in good standing in the State of Ohio, having a place of business at 50 Dakota Avenue, Columbus, Ohio 43222.

**DATES:** Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

**ADDRESSES:** Submit written objections to Jeffrey V. Bamber, Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm 258, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; Email: *afmclo.jaz.tech@us.af.mil.* Include Docket No. AIT–210504A–PL in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey V. Bamber, Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm 258, Wright-Patterson AFB, OH 45433–7109; Telephone (937) 904–5564; Facsimile: (937) 255–3733; or Email: *afmclo.jaz.tech@us.af.mil.*

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force intends to grant the partially exclusive patent license agreement for the invention described in: U.S. Patent No. 10,111,094, entitled, ''Wireless Intrusion Detection and Device Fingerprinting Through Preamble Manipulation,'' filed August 14, 2015, and issued October 23, 2018.

**Abstract of Patent**

A method of establishing a hardware identity of a coordinating device in a wireless network is provided. A standard PHY preamble is modified to a preamble that can be received by the coordinating device having an expected hardware configuration. The modified PHY preamble is transmitted with an association request by a joining device. In response to not receiving a reply containing an association response from the coordinating device by the joining device, determining the hardware configuration of the coordinating device is not the expected hardware configuration. A further method of characterizing a hardware identity of a device in a wireless network is also provided. A request with a modified PHY preamble is transmitted to a device. If a reply is received from the device, characterizing the device as a first hardware type. And, if a reply is not received, characterizing the device as not the first hardware type.

The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

**Adriane Paris,**

*Acting Air Force Federal Register Liaison Officer.*

[FR Doc. 2021–12692 Filed 6–15–21; 8:45 am]

**BILLING CODE 5001–10–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2021–SCC–0089]**

### Agency Information Collection Activities; Comment Request; Evaluation of Promise Neighborhoods

**AGENCY:** Institute of Educational Science (IES), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before August 16, 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–0089. 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.* 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 6W208C, Washington, DC 20202–8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Erica Johnson, 202–245–7676.

**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:* Evaluation of Promise Neighborhoods.

*OMB Control Number:* 1850–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Individuals and Households.

*Total Estimated Number of Annual Responses:* 23.

*Total Estimated Number of Annual Burden Hours:* 71.

*Abstract:* The Promise Neighborhoods program aims to build on existing community services and strengths to provide a comprehensive and coordinated pipeline of educational and developmental services from ''cradle to career'' to benefit children and families in the country's most distressed neighborhoods. Congress has invested $506 million in Promise Neighborhoods grants and mandated an evaluation of the program.

This package requests approval to conduct a survey of Promise Neighborhoods grantees and to collect multiple years of administrative school records from districts. These data will be used to study the implementation and outcomes of the Promise Neighborhoods program.

Dated: June 11, 2021.

**Juliana Pearson,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2021–12664 Filed 6–15–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Agency Information Collection Extension

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of request for comments.

**SUMMARY:** The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB).

**DATES:** Comments regarding this proposed information collection must be received on or before August 16, 2021. If you anticipate any difficulty in submitting comments within that period, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

**ADDRESSES:** Written comments may be sent to Jennifer Kropke, Director of Energy Jobs, Office of Energy Jobs, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, or by email at *Jennifer.Kropke@doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Kropke, Director of Energy Jobs, Office Energy Jobs, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, or by telephone at (240) 255–8283 and email at *Jennifer.Kropke@doe.gov.*

**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 used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains:

(1) *OMB No.* 1910–5179;

(2) *Information Collection Request Titled:* Data Collection for the U.S. Energy Employment Report;

(3) *Type of Review:* Reinstatement;

(4) *Purpose:* The rapidly changing nature of energy production, distribution, and consumption throughout the U.S. economy is having a dramatic impact on job creation and economic competitiveness, but is inadequately understood and, in some sectors, incompletely measured by traditional labor market sources. The U.S. Energy and Employment Report Survey will collect data from businesses in in-scope industries, quantifying and qualifying employment among energy activities, workforce demographics and the industry's perception on the difficulty of recruiting qualified workers. The data will be used to generate an annual U.S. Energy and Employment Report;

(5) *Annual Estimated Number of Respondents:* 30,000;

(6) *Annual Estimated Number of Total Responses:* 30,000;

(7) *Annual Estimated Number of Burden Hours:* 6,750;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $0.

**Statutory Authority:** Sec. 301 of the Department of Energy Organization Act (42 U.S.C. 7151); sec. 5 of the Federal Energy Administration Act of 1974 (15 U.S.C. 764); and sec. 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813).

### Signing Authority

This document of the Department of Energy was signed on June 10, 2021, by Carla Frisch, Director of the Office of Policy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 11, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2021–12618 Filed 6–15–21; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Notice of Request for Information (RFI) on Integrating Electric Vehicles Onto the Electric Grid

**AGENCY:** Vehicle Technologies Office, Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Request for information (RFI).

**SUMMARY:** The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number DE–FOA–0002528 regarding the Office of Energy Efficiency & Renewable Energy's (EERE) and Office of Electricity's (OE) Request for Information on Integrating Electric Vehicles onto the Electric Grid. The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to integrating electric vehicles onto the grid. EERE and OE are specifically interested in information directed at the report requirements as listed in Section 137 of the Energy Act of 2020.

**DATES:** Responses to the RFI must be received by July 23, 2021.

**ADDRESSES:** Interested parties are to submit comments electronically to *VTO@ee.doe.gov.* Include ''Vehicle to Grid RFI'' in the subject line of the email. Responses must be provided as attachments to an email. Only electronic responses will be accepted. The complete RFI document is located at *https://eere-exchange.energy.gov/.*

**FOR FURTHER INFORMATION CONTACT:** Questions may be addressed to *VTO@ee.doe.gov* or to Lee Slezak at 202–586–2335. Further instruction can be found in the RFI document posted on EERE Exchange at *https://eere-exchange.energy.gov/.*

**SUPPLEMENTARY INFORMATION:** The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to integrating electric vehicles onto the grid. DOE is specifically interested in information directed at the report requirements as listed in Section 137 of the Energy Act of 2020 (Pub. L. 116–260). Feedback is requested in the following categories outlined in the RFI: (1) Evaluation of the use of electric vehicles to maintain the reliability of the electric grid, (2) impact of grid integration on electric vehicles, (3) impacts to the electric grid of increased penetration of electric vehicles, (4) technology needed to achieve bi-directional power flow on the

distribution grid, and (5) cybersecurity challenges and needs associated with electrifying the transportation sector. Specific questions can be found in the RFI. The RFI is available at: *https://eere-exchange.energy.gov/.*

*Confidential Business Information:* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

*Signing Authority:* This document of the Department of Energy was signed on June 10, 2021, by David Howell, Acting Director, Vehicle Technologies Office, Office of Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 10, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2021–12670 Filed 6–15–21; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP21–893–000.

*Applicants:* Enable Mississippi River Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rate Filing—City of Red Bud 6.9.2021 to be effective 6/9/2021.

*Filed Date:* 6/9/21.

*Accession Number:* 20210609–5055.

*Comments Due:* 5 p.m. ET 6/21/21.

*Docket Numbers:* RP21–894–000.

*Applicants:* EQT Energy, LLC, Alta Energy Marketing, LLC.

*Description:* Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of EQT Energy, LLC, et al.

*Filed Date:* 6/9/21.

*Accession Number:* 20210609–5174.

*Comments Due:* 5 p.m. ET 6/16/21.

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: June 10, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–12699 Filed 6–15–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 3273–000]**

### Chittenden Falls Hydropower, Inc.; Notice of Authorization for Continued Project Operation

On May 31, 2019, Chittenden Falls Hydropower, Inc., licensee for the Chittenden Falls Hydroelectric Project No. 3273, filed an Application for a Subsequent License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Chittenden Falls Hydroelectric Project is located on Kinderhook Creek, near the Town of Stockport, Columbia County, New York.

The license for Project No. 3273 was issued for a period ending May 31, 2021. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 3273 is issued to Chittenden Falls Hydropower, Inc, for a period effective June 1, 2021 through May 31, 2022 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before May 31, 2022, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Chittenden Falls Hydropower, Inc. is authorized to continue operation of the Chittenden Falls Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Dated: June 10, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–12649 Filed 6–15–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 3255–015]**

### Lyonsdale Associates, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3255–015.

c. *Date Filed:* April 30, 2021.

d. *Submitted By:* Lyonsdale Associates, LLC (Lyonsdale Associates).

e. *Name of Project:* Lyonsdale Hydroelectric Project.

f. *Location:* On the Moose River, in Lewis County, New York. The project does not occupy any federal land.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Matthew J. Nini, Licensing and Compliance Manager, Eagle Creek Renewable Energy, 65 Madison Avenue, Suite 500, Morristown, NJ 07960; (973) 998–8171; *Matthew.Nini@eaglecreekre.com.*

i. *FERC Contact:* Samantha Pollak at (202) 502–6419; or email at *samantha.pollak@ferc.gov.*

j. Lyonsdale Associates, filed its request to use the Traditional Licensing Process on April 30, 2021. Lyonsdale Associates provided public notice of its request on April 7, 2021. In a letter dated June 10, 2021, the Director of the Division of Hydropower Licensing approved Lyonsdale Associates' request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Eagle Creek Renewable Energy as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Eagle Creek Renewable Energy filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*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 FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3255. Pursuant to 18 CFR 16.8, 16.9, and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2024.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 10, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–12652 Filed 6–15–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 4349–032]**

### EONY Generation Limited; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 4349–032.

c. *Date Filed:* April 30, 2021.

d. *Submitted By:* EONY Generation Limited.

e. *Name of Project:* Moose River Hydroelectric Project.

f. *Location:* On the Moose River, in Lewis County, New York. The project does not occupy any federal land.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Franz Kropp, Director, Generation, EONY Generation Limited; 7659 Lyonsdale Road, Lyons Falls, NY 13368; (613) 225–0418 or email at *franzkropp@energyottawa.com.*

i. *FERC Contact:* Samantha Pollak at (202) 502–6419; or email at *samantha.pollak@ferc.gov.*

j. EONY Generation Limited filed its request to use the Traditional Licensing Process on April 30, 2021. EONY Generation Limited provided public notice of its request on April 7, 2021. In a letter dated June 10, 2021, the Director of the Division of Hydropower Licensing approved EONY Generation Limited's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402. We are also initiating consultation with the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating EONY Generation Limited as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. EONY Generation Limited filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*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 FERC

Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208 3676 (toll free), or (202) 502–8659 (TTY).

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 4349. Pursuant to 18 CFR 16.8, 16.9, and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2024.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 10, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–12643 Filed 6–15–21; 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 exempt wholesale generator filings:

*Docket Numbers:* EG21–166–000.

*Applicants:* Trent River Solar Mile Lessee, LLC.

*Description:* Self-Certification of Exempt Wholesale Generator of Trent River Solar Mile Lessee, LLC.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5082.

*Comments Due:* 5 p.m. ET 7/1/21.

*Docket Numbers:* EG21–167–000.

*Applicants:* Golden Hills Wind Farm LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Golden Hills Wind Farm LLC.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5107.

*Comments Due:* 5 p.m. ET 7/1/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER21–669–002.

*Applicants:* Morongo Transmission LLC.

*Description:* Compliance Filing of Morongo Transmission LLC to the May 5, 2021 Order.

*Filed Date:* 6/4/21.

*Accession Number:* 20210604–5191.

*Comments Due:* 5 p.m. ET 6/25/21.

*Docket Numbers:* ER21–1319–001.

*Applicants:* Duke Energy Progress, LLC.

*Description:* Compliance filing: DEP ROE Settlement Compliance Filing to be effective 1/1/2021.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5114.

*Comments Due:* 5 p.m. ET 7/1/21.

*Docket Numbers:* ER21–2075–001.

*Applicants:* Public Service Company of Colorado.

*Description:* Tariff Amendment: 2021–06–10 PSC–TSGT–WAPA–PRPA-Boundary Meter-595-Amnd-0.0.1 to be effective 8/1/2021.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5032.

*Comments Due:* 5 p.m. ET 7/1/21.

*Docket Numbers:* ER21–2103–000.

*Applicants:* Caney River Wind Project, LLC.

*Description:* Petition for Limited Waiver, et al. of Caney River Wind Project, LLC.

*Filed Date:* 6/9/21.

*Accession Number:* 20210609–5036.

*Comments Due:* 5 p.m. ET 6/21/21.

*Docket Numbers:* ER21–2111–000.

*Applicants:* Nevada Power Company.

*Description:* § 205(d) Rate Filing: Service Agreement No. 21–00014 NPC and Leeward to be effective 8/9/2021.

*Filed Date:* 6/9/21.

*Accession Number:* 20210609–5135.

*Comments Due:* 5 p.m. ET 6/30/21.

*Docket Numbers:* ER21–2112–000.

*Applicants:* RE Mustang Two Whirlaway LLC.

*Description:* § 205(d) Rate Filing: RE Mustang Two Whirlaway LLC Amended and Restated Shared Facilities Agreement to be effective 6/10/2021.

*Filed Date:* 6/9/21.

*Accession Number:* 20210609–5136.

*Comments Due:* 5 p.m. ET 6/30/21.

*Docket Numbers:* ER21–2113–000.

*Applicants:* Midcontinent Independent System Operator, Inc., International Transmission Company.

*Description:* § 205(d) Rate Filing: 2021–06–10_SA 3664 ITC–DTE Amended GIOA to be effective 8/10/2021.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5043.

*Comments Due:* 5 p.m. ET 7/1/21.

*Docket Numbers:* ER21–2114–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Kansas Power Pool, Inc. Tariff Revisions to Revise Depreciation Rates to be effective 7/1/2021.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5070.

*Comments Due:* 5 p.m. ET 7/1/21.

*Docket Numbers:* ER21–2115–000.

*Applicants:* Virginia Electric and Power Company, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Dominion submits Briel Farm WDSA, SA No. 5974 to be effective 6/2/2021.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5104.

*Comments Due:* 5 p.m. ET 7/1/21.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF21–981–000.

*Applicants:* Shell Chemical Appalachia LLC.

*Description:* Form 556 of Shell Chemical Appalachia LLC.

*Filed Date:* 6/10/21.

*Accession Number:* 20210610–5056.

*Comments Due:* Non-Applicable.

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: June 10, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–12698 Filed 6–15–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires

Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or 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. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

| Docket Nos. | File date | Presenter or requester |
|---|---|---|
| *Prohibited:* | | |
| 1. P–1494–438 | 6–1–2021 | FERC Staff [1]. |
| 2. P–1494–438 | 6–1–2021 | FERC Staff [2]. |
| 3. P–1494–438 | 6–1–2021 | FERC Staff [3]. |
| 4. P–1494–438 | 6–2–2021 | FERC Staff [4]. |
| *Exempt:* | | |
| None. | | |

[1] Emailed comments dated 5/28/2021 from Susan Thabit.
[2] Emailed comments dated 5/29/2021 from Alan Harper and 3 other individuals.
[3] Emailed comments dated 5/30/2021 from Joyce Grajczyk.
[4] Emailed comments dated 6/1/2021 from Caryn Graves.

Dated: June 10, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–12696 Filed 6–15–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF DEFENSE

## DEPARTMENT OF ENERGY

## ENVIRONMENTAL PROTECTION AGENCY

## NUCLEAR REGULATORY COMMISSION

**[EPA–HQ–OAR–2021–0276; FRL–10023–12–OAR]**

## Multi-Agency Radiation Survey and Site Investigation Manual, Revision 2

**AGENCY:** Department of Defense, Department of Energy, Environmental Protection Agency, and the Nuclear Regulatory Commission.

**ACTION:** Notice of availability with request for public comment.

**SUMMARY:** The Department of Defense (DoD), Department of Energy (DOE), Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) are announcing for public comment the availability of a draft revision document, entitled the ''Multi-Agency Radiation Survey and Site Investigation Manual'' (MARSSIM). MARSSIM provides information on planning, conducting, evaluating, and documenting environmental radiological surveys of surface soil and building surfaces for demonstrating compliance with regulations. MARSSIM, when finalized as Revision 2, will be a multi-agency consensus document. The agencies are seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing the document is received. The agencies will review public comments received on the draft MARSSIM Revision 2 as well as comments from a concurrent, independent, scientific peer review. The Agencies will review comments received during the public comment period and make revisions to the document as appropriate.

**DATES:** Comments must be received on or before September 14, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2021–0276, to the *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit: *http://www2.epa.gov/dockets/commenting-epa-dockets.*

You may obtain publicly-available information related to this action, including copies of the MARSSIM

Revision 2, by any of the following methods:

*NRC's Agencywide Documents Access Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' Please refer to ML21008A572 when contacting the NRC about the availability of the MARSSIM Rev. 2 draft. For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. Attention: The PDR, where you may have previously examined and ordered copies of public documents is currently closed for in-person document review.

You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays. The DOE, EPA, and NRC each have a publication number for MARSSIM. They are: For the DOE, DOE/AU–0002; for the EPA, EPA 402–P–20–001; for the NRC, NUREG–1575, Rev. 2. A free single copy of the draft MARSSIM Revision 2 may be requested by email to *DISTRIBUTION.Resource@nrc.gov*.

The MARSSIM Revision 2 document is also available for download at: *https://www.epa.gov/radiation/multi-agency-radiation-survey-and-site-investigation-manual-marssim*.

*Instructions:* All submissions received must include the Docket ID No. EPA–HQ–OAR–2021–0276 for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions and additional information on submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Any of the following points of contact for each agency for technical information (See **ADDRESSES** section above for directions on obtaining a copy of the draft MARSSIM Revision 2.): DoD: Erik Abkemeier, Phone: (757) 887–7635, *erik.j.abkemeier@navy.mil,* U.S. Navy, NAVSEADET RASO, 160 Main Road, Yorktown, VA 23691–5105; DOE: Derek Favret (AU–22), Phone: (202) 586–0250, *derek.favret@hq.doe.gov,* or Amanda Anderson (EM–3.11), Phone: (240) 702–5556, *amanda.anderson@em.doe.gov,* U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; EPA: Kathryn Snead; Phone: (202) 343–9228, *snead.kathryn@epa.gov,* U.S. Environmental Protection Agency, Mail Stop 6608T, 1200 Pennsylvania Avenue NW, Washington, DC 20460–1000; NRC: Mark Fuhrmann, Phone: (301) 415–0879, *mark.fuhrmann@nrc.gov,* U.S. Nuclear Regulatory Commission, Mail Stop TWF 10 A–12 11555 Rockville Pike, Rockville, MD 20852–2738. Questions concerning the multi-agency document development project should be addressed to Kathryn Snead, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, MC 6608T, Washington, DC 20460, (202) 343–9228, *snead.kathryn@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. What should I consider as I prepare my comments for EPA?*

1. *Submitting Confidential Business Information (CBI).* The EPA may publish any comment received to its public docket. Do not submit CBI information to the EPA through *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 the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the files on 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 submitting comments, remember to:

- Identify the rulemaking by docket number EPA–HQ–OAR–2021–0276 and other identifying information (subject heading, **Federal Register** date and page number).
- *Follow directions:* The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

## II. Background

MARSSIM provides information on planning, conducting, evaluating, and documenting environmental radiological surveys of surface soil and building surfaces for demonstrating compliance with regulations. MARSSIM, when finalized as Revision 2, will update this multi-agency consensus document.

MARSSIM was originally developed by the technical staffs of the four Federal agencies having authority for control of radioactive materials: DoD, DOE, EPA and NRC (60 FR 12555; March 7, 1995). The four agencies issued Revision 1 to MARSSIM in August 2000, and additional edits to Revision 1 in June 2001. MARSSIM has not been updated since 2001; updates prior to 2001 primarily consisted of minor non-technical edits. Revision 2 updates the science, clarifies methods, and implements lessons learned from over 20 years of the document's use in industry.

A summary of changes in MARSSIM Revision 2 includes the following: (1) Added measurement quality objectives (MQOs) and measurement uncertainty, (2) expanded measurement methods to include scan-only surveys, (3) updated survey instrumentation information, (4) added Scenario B (''assumed to meet the criteria until proven otherwise''), (5) increased emphasis on regulator interface during survey design, (6) improved description of the lower bound of the gray region (LBGR), (7) updated references, (8) changed English units to International System of Units (SI), (9) avoided using the term ''Area Factor,'' (10) included additional examples in Chapter 5 and (11) reorganized Chapter 4.

The public review is a necessary step in the development of a final multi-agency consensus document. The document will also undergo concurrent, independent, scientific peer review. The draft has not been approved by the participating agencies for use, in part or in whole, and should not be used, cited, or quoted, except for the purposes of providing comments as requested.

Commenters are requested to focus on technical accuracy and understandability. Commenters are also

requested to address five questions while reviewing MARSSIM Revision 2:

(1) Do the revisions to MARSSIM provide greater clarity while maintaining a practical and implementable approach to performing environmental radiological surveys of surface soil and building surfaces?

(2) Are the revisions to MARSSIM technically accurate?

(3) Does MARSSIM Revision 2 provide useful examples and descriptions of approaches to implementing surveys and the statistics by which they are interpreted?

(4) Is the information in MARSSIM Revision 2 understandable and presented in a logical sequence? How can the presentation of material be modified to improve the understandability of the manual?

Comments may be submitted as proposed modified text, or as a discussion. Comments should be accompanied by supporting bases, rationale, or data. To ensure efficient and complete comment resolution, commenters are requested to reference the page number and the line number of MARSSIM Revision 2 to which the comment applies. Enter only the beginning page and line number, even if your comment applies to several pages or lines to follow.

Comments corresponding to an entire chapter, an entire section, or an entire table should be referenced to the line number for the title of the chapter section, or table. Comments on footnotes should be referenced to the line in the main text where the footnote is indicated. Comments on figures should be referenced to the page on which the figure appears. Figures do not have line numbers. The figure number should be included in the text of the comment. Comments on the entire manual should be referenced to the title page.

*Title:* Draft Multi-Agency Radiation Survey and Site Investigation Manual, Revision 2.

**Laura Macaluso,**

*Director, Force Safety and Occupational Health, Deputy Assistant Secretary of Defense Safety and Occupational Health, Office of the Under Secretary for Personnel and Readiness, Department of Defense.*

**Michael J. Silverman,**

*Director, Office of Environmental Protection and ES&H Reporting, Office of Environment, Health, Safety and Security, Department of Energy.*

**Jonathan Edwards,**

*Director, Office of Radiation and Indoor Air, Environmental Protection Agency.*

**Raymond V. Furstenau,**

*Director, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission.*

[FR Doc. 2021–12654 Filed 6–15–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[FR ID 32686]**

### Privacy Act of 1974; Matching Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of a new matching program.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the establishment of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Minnesota Department of Human Services (Department). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Emergency Broadband Benefit Program, which is administered by USAC under the direction of the FCC, or other Federal programs that use qualification for the FCC's Lifeline Program as an eligibility criterion. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

**DATES:** Written comments are due on or before July 16, 2021. This computer matching program will commence on July 16, 2021 and will conclude 18 months after becoming effective.

**ADDRESSES:** Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Margaret Drake at 202–417–1707 or *Privacy@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive Supplemental Nutrition Assistance Program (SNAP) and Medicaid benefits administered by the Minnesota Department. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

#### Participating Agencies

Minnesota Department of Human Services (Department).

#### Authority for Conducting the Matching Program

Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54.

#### Purpose(s)

In the 2016 Lifeline Modernization Order (81 FR 33026, May 24, 2016), the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier

is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive SNAP and Medicaid benefits administered by the Minnesota Department. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

**Categories of Individuals**

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for EBBP benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for EBBP benefits; are minors whose status qualifies a parent or guardian for EBBP benefits; or are individuals who have received EBBP benefits.

**Categories of Records**

The categories of records involved in the matching program include, but are not limited to last name, first name, date of birth and the last four digits of the applicant's Social Security Number. The National Verifier will transfer these data elements to the Minnesota Department, which will respond either ''yes'' or ''no'' that the individual is enrolled in an EBBP-qualifying assistance program: State of Minnesota's SNAP and Medicaid.

**System(s) of Records**

The USAC records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523, Feb. 25, 2021.

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2021–12726 Filed 6–15–21; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[FR ID 32681]**

## Privacy Act of 1974; Matching Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of a new matching program.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the establishment of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Tennessee Department of Human Services (Department). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Emergency Broadband Benefit Program, which is administered by USAC under the direction of the FCC, or other Federal programs that use qualification for the FCC's Lifeline Program as an eligibility criterion. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

**DATES:** Written comments are due on or before July 16, 2021. This computer matching program will commence on July 16, 2021 and will conclude 18 months after becoming effective.

**ADDRESSES:** Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Margaret Drake at 202–417–1707 or *Privacy@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive Supplemental Nutrition Assistance Program (SNAP) benefits administered by the Tennessee Department. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

**Participating Agencies**

Tennessee Department of Human Services (Department).

**Authority for Conducting the Matching Program**

Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54.

**Purpose(s)**

In the 2016 Lifeline Modernization Order (81 FR 33026, May 24, 2016), the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive SNAP benefits administered by the Tennessee Department. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

**Categories of Individuals**

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for EBBP benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for EBBP benefits; are minors whose status qualifies a parent or guardian for EBBP benefits; or are individuals who have received EBBP benefits.

**Categories of Records**

The categories of records involved in the matching program include, but are not limited to last name, date of birth and the last four digits of the applicant's Social Security Number. The National Verifier will transfer these data elements to the Tennessee Department, which will respond either ''yes'' or ''no'' that the individual is enrolled in an EBBP-qualifying assistance program: State of Tennessee's SNAP.

**System(s) of Records**

The USAC records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523, Feb. 25, 2021.

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2021–12725 Filed 6–15–21; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov*.

*Agreement No.:* 201353–001.

*Agreement Name:* THE Alliance/Evergreen Vessel Sharing Agreement.

*Parties:* Hapag Lloyd AG; Ocean Network Express Pte. Ltd.; Yang Ming Marine Transport Corp., Yang Ming (UK) Ltd., and Yang Ming (Singapore) Pte. Ltd. (acting as a single party); and Evergreen Marine Corporation (Taiwan) Ltd.

*Synopsis:* The amendment updates the party listing for Evergreen Line (ELJSA) to include Evergreen Marine (Asia) Pte. Ltd.

*Proposed Effective Date:* 7/22/2021.

*Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/39502.*

*Agreement No.:* 201282–001.

*Agreement Name:* Hyundai Glovis/Grimaldi West Africa Space Charter Agreement.

*Parties:* Hyundai Glovis Co. Ltd. and Grimaldi Deep Sea S.P.A.

*Synopsis:* The amendment revises Article 5(1)(d) to clarify that the parties do not have authority to contract jointly with terminals and stevedores and updates the address of Hyundai Glovis.

*Proposed Effective Date:* 6/10/2021.

*Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/20303.*

*Agreement No.:* 011790–005.

*Agreement Name:* Dole Ocean Cargo Express/King Ocean Services Limited Space Charter Agreement.

*Parties:* Dole Ocean Cargo Express, LLC and King Ocean Services Limited.

*Synopsis:* The amendment revises the language of Article 5.3 to clarify that the parties do not have authority to contract jointly with terminals and stevedores.

*Proposed Effective Date:* 6/10/2021.

*Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/639.*

*Agreement No.:* 012443–004.

*Agreement Name:* Hyundai Glovis/Sallaum Cooperative Working Agreement.

*Parties:* Hyundai Glovis Co. Ltd. and Sallaum Lines Switzerland SA.

*Synopsis:* The amendment revises Article 5.2 to clarify that the parties do not have authority to contract jointly with terminals and stevedores and updates the address of Hyundai Glovis.

*Proposed Effective Date:* 6/10/2021.

*Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1921.*

Dated: June 11, 2021.

**Rachel E. Dickon,**

*Secretary.*

[FR Doc. 2021–12689 Filed 6–15–21; 8:45 am]

**BILLING CODE 6730–02–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 July 1, 2021.

*A. Federal Reserve Bank of Kansas City* (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Michael Waldo, Alma, Nebraska; and Dwight Waldo, Republican City, Nebraska*; to establish the Waldo Family Group, a group acting in concert to retain voting shares of Commercial State Holding Company, and thereby indirectly retain voting shares of Commercial State Bank, both of Republican City, Nebraska.

Board of Governors of the Federal Reserve System, June 11, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–12686 Filed 6–15–21; 8:45 am]

**BILLING CODE P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843), and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 July 16, 2021.

*A. Federal Reserve Bank of Minneapolis* (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *MidCountry Acquisition Corp., Minneapolis, Minnesota;* a savings and loan holding company, to become a bank holding company by (1) merging with J & B Financial Holdings, Inc., Minneapolis, Minnesota, and thereby indirectly acquiring 1st United Bank, Faribault, Minnesota; First State Bank of Sauk Centre, Sauk Centre, Minnesota; and Red Rock Bank, Sanborn, Minnesota; and (2) merging with Northfield Bancshares, Inc, and thereby indirectly acquiring Community Resource Bank, both of Northfield, Minnesota.

Additionally, MidCountry Acquisition Corp., to retain MidCountry Bank, Bloomington, Minnesota, and thereby engage in operating a savings association pursuant to section 225.28(b)(4)(ii) of the Board's Regulation Y; and to acquire First State Agency, Inc., Sauk Centre, Minnesota, and thereby indirectly engage in general insurance agency activity through a lending office located in a place that has a population not exceeding 5,000 pursuant to section 225.28(b)(11)(iii)(A) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 11, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–12688 Filed 6–15–21; 8:45 am]

**BILLING CODE P**

## FEDERAL TRADE COMMISSION

**[File No. 192 3000]**

### MoviePass, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement; request for comment.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before July 16, 2021.

**ADDRESSES:** Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write ''MoviePass, Inc.; File No. 192 3000'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Thomas B. Carter (214–979–9372), Federal Trade Commission, Southwest Regional Office, 199 Bryan Street, Suite 2150, Dallas, TX 75201.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before July 16, 2021. Write ''MoviePass, Inc.; File No. 192 3000'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Due to the COVID–19 pandemic and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''MoviePass, Inc.; File No. 192 3000'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D),

Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else'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 your comment does not include 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.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing the proposed settlement. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before July 16, 2021. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, an agreement containing a proposed consent order (''Proposed Order'') from MoviePass, Inc., a corporation, Helios and Matheson Analytics, Inc. (''Helios''), a corporation, Mitchell Lowe, individually and as an officer of MoviePass, Inc., and Theodore Farnsworth, individually and as an officer of Helios (''Respondents''). The Proposed Order has been placed on the public record for 30 days to receive comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's Proposed Order.

This matter involves Respondents' advertising, promotion and sale of the movie-viewing subscription service ''MoviePass,'' which offered consumers access to one movie per day at their local movie theaters for a monthly subscription price. The FTC complaint challenges two aspects of Respondents' marketing of MoviePass:

First, the complaint alleges that Respondents' offer of one movie per day was deceptive due to several measures Respondents took to prevent consumers from using the service as promised—measures that included invalidating certain consumers' passwords, adding a difficult and defective ticket verification procedure to view movies, and placing undisclosed usage caps on frequent users.

The complaint alleges that this conduct violated two laws the FTC enforces. First, the FTC alleges the conduct to be a ''deceptive act[ ] or practice[ ]'' that violates Section 5(a) of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45(a). The conduct described above was deceptive because Respondents engaged in it to prevent consumers from using MoviePass once per day as advertised. Second, the FTC alleges that Respondents violated the Restore Online Shoppers' Confidence Act (''ROSCA''), 15 U.S.C. 8403, through the same conduct by failing to disclose the steps that they took to prevent consumers from using MoviePass once per day. This failure violated ROSCA in two ways—by failing to disclose all material terms of the transaction as required by 15 U.S.C. 8403(1) and by failing to secure consumers' express informed consent to the transaction before charging their financial accounts as required by 15 U.S.C. 8403(2).

In addition to the deceptive marketing of MoviePass's ''one movie per day'' service, the complaint further alleges that Respondents MoviePass, Inc., Helios, and Lowe misrepresented the data security measures they took to protect consumers' personal information against unauthorized access. The complaint alleges that Respondents' actions constitute unfair or 1 deceptive acts or practices and the making of false advertisements, in violation of Section 5(a) of the FTC Act.

The Proposed Order is designed to prevent Respondents from engaging in similar acts or practices in the future. It includes injunctive relief to address these alleged violations and to prohibit similar and related conduct:

- Part I prohibits Respondents from future misrepresentations similar to those at issue in the complaint by prohibiting them from misrepresenting that:
  - A service will allow consumers to view one movie per day at their local theaters;
  - A service will allow consumers to view any movie, in any theater, at any time; and
  - Respondents will take reasonable administrative, technical, physical, or managerial measures to protect consumers' personal information from unauthorized access.
- Part I also features ancillary relief relating to the challenged conduct by prohibiting misrepresentations relating to (1) the total costs to purchase, receive, or use, and the quantity of, any good or service, (2) any material restrictions, limitations, or conditions to purchase, receive, or use the product or service, (3) the extent to which Respondents otherwise protect the privacy, security, availability, confidentiality, or integrity of consumers' personal information, and (4) any other material fact.
- Parts II–VI provide ancillary relief relating to the data security practices of MoviePass, Inc., Helios, and Lowe. The provisions thus only apply to businesses these three respondents operate.
  - Part II requires a comprehensive information security program for any enterprise that collects consumers' personal information, requiring among other things:

■ That the information security program contain safeguards that are based on the volume and sensitivity of the personal information at risk;

■ That testing and monitoring of the safeguards are conducted regularly but no less often than once a year; and

■ That the information security program be documented, evaluated, and adjusted in light of any changes to business operations or new technological advancements.

○ Parts III and IV respectively require the three respondents (1) to obtain an initial and then biennial third-party information security assessments and (2) to cooperate with the third parties conducting the assessments.

○ Part V requires the three respondents to report to the Commission any event involving consumers' personal information that constitutes a reportable event to any U.S. federal, state, or local government authority.

○ Part VI mandates that the three respondents submit an annual certification regarding their compliance with the Proposed Order's data security requirements.

• Parts VII through XI are reporting and compliance provisions. Part VII mandates that all Respondents acknowledge receipt of the Proposed Order and, for 20 years, distribute the Proposed Order to certain employees and agents and secure acknowledgments from recipients of the Proposed Order. Part VIII requires that Respondents submit compliance reports to the FTC one year after the order's issuance and submit additional reports when certain events occur. Part IX requires that, for 20 years, Respondents create certain records and retain them for at least 5 years. Part X provides for the FTC's continued compliance monitoring of Respondents' activity during the Proposed Order's effective dates. Part XI is a provision ''sunsetting'' the Proposed Order after 20 years, with certain exceptions. Respondents MoviePass, Inc. and Helios are exempt from Sections II–X of the Proposed Order until their bankruptcy cases are closed, and these bankruptcies led the FTC to not seek a monetary judgment in this matter.

The purpose of this analysis is to facilitate public comment on the Proposed Order. It is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify in any way the Proposed Order's terms.

By direction of the Commission.

**Joel Christie,**

*Acting Secretary.*

[FR Doc. 2021–12701 Filed 6–15–21; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Temporary Suspension of Dogs Entering the United States From High-Risk Rabies Countries

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) announces a temporary suspension in the importation of dogs from high-risk rabies-enzootic countries (hereinafter referred to as high-risk country or countries) into the United States. Due to the unprecedented global response to the Coronavirus Disease 2019 (COVID–19) pandemic and limited availability of public health resources at the Federal, state, and local level, this action is necessary to protect the public health against the reintroduction of canine rabies virus variant (CRVV) into the United States and to ensure the welfare of dogs being imported into the U.S. This suspension, with limited exceptions, includes dogs imported from low-risk or CRVV-free countries if the dogs have been in any high-risk countries during the previous six months.

**DATES:** This notice is effective July 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this notice contact: Ashley C. Altenburger, J.D., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–H16–4, Atlanta, GA 30329 or 404–498–1600.

For information regarding HHS/CDC regulations for the importation of dogs, please contact: Dr. Emily Pieracci, D.V.M., Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–V–18–2, Atlanta, GA 30329 or 404–498–1600. Either Mrs. Altenburger or Dr. Pieracci may also be reached by email at *CDCAnimalImports@cdc.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Background and Authority

Rabies, one of the deadliest zoonotic diseases, accounts for an estimated 59,000 human deaths globally each year [1]—which equates to one human death every 9 minutes. Canine rabies virus variant (CRVV) is responsible for 98% of these deaths.[2] The rabies virus can infect any mammal, and once clinical signs appear, the disease is almost always fatal.[2] In September 2007, at the Inaugural World Rabies Day Symposium, HHS/CDC declared the United States to be free of CRVV. However, this rabies virus variant is still a serious public health threat in the more than 120 countries where CRVV remains enzootic. Preventing the entry of animals infected with CRVV into the United States is a public health priority.

Under section 361 of the Public Health Service Act (PHS Act) (42 U.S.C. 264), the Secretary of Health and Human Services may make and enforce such regulations as in the Secretary's judgment are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States and from one State or possession into any other State or possession.[3] Since at least 1956, Federal quarantine regulations (currently found at 42 CFR 71.51) have controlled the entry of dogs into the United States. *See* 21 FR 9870, Dec. 12, 1956. One of the principal goals of these regulations is to prevent the reintroduction and spread of CRVV into the United States. While the United States continues to have bat rabies lyssavirus (rabies viruses that are enzootic to bat populations) and multiple terrestrial variants of rabies circulating in wildlife species (*e.g.* fox, raccoon, skunk), it has been free of CRVV since 2007 and now focuses its regulatory efforts on preventing the reintroduction of this rabies variant.

Under 42 CFR 71.51, all dogs admitted into the United States must be accompanied by a valid rabies vaccination certificate.[4] This

[1] WHO Technical Report Series 1012, 2018; Page 6.

[2] Fooks AR, Banyard AC, Horton DL, Johnson N, McElhinney LM, Jackson AC. Current status of rabies and prospects for elimination. Lancet 2014;384:1389–99.

[3] Although the statute assigns authority to the Surgeon General, all statutory powers and functions of the Surgeon General were transferred to the Secretary of HHS in 1966, 31 FR 8855, 80 Stat. 1610 (June 25, 1966), *see also* Public Law 96–88, 509(b), October 17, 1979, 93 Stat. 695 (codified at 20 U.S.C. 3508(b)). The Secretary has retained these authorities despite the reestablishment of the Office of the Surgeon General in 1987.

[4] *https://www.cdc.gov/importation/bringing-an-animal-into-the-united-states/vaccine-certificate.html.*

requirement applies unless the dog's owner or importer submits satisfactory evidence that the dog is less than 6 months old and has only been in a CRVV-free or low-risk country, or has only been in a CRVV-free or low-risk country for the 6 months before arrival if it is older than 6 months.[5] CDC maintains a current, publicly available list of countries with high risk of CRVV [6] and provides guidance for dog entry requirements based on the dog's country of import.

Additionally, under 42 CFR 71.51(e), CDC may exclude dogs coming into the United States from areas determined to have high rates of rabies. Under 42 CFR 71.63, CDC may also temporarily suspend the entry of animals, articles, or things from designated foreign countries and places into the United States when it determines there exists in a foreign country a communicable disease that threatens the public health of the United States and the entry of imports from that country increases the risk that the communicable disease may be introduced. When such a suspension is issued, CDC designates the period of time or conditions under which imports into the United States may be suspended. CDC bases this temporary suspension on these legal authorities.

## II. Public Health Rationale

The United States was declared CRVV-free in 2007. Importing dogs from high-risk CRVV countries involves a significant public health risk. CDC requires strict compliance with all its public health entry requirements. Although the U.S. Government does not track the total number of dogs imported each year, it is estimated that approximately 1 million dogs are imported into the U.S. annually, of which 100,000 dogs are from countries at high- risk of CRVV.[7] This estimate was based on information provided by airlines, the Department of Homeland Security's Customs and Border Protection (CBP) staff, and a study conducted at a U.S.-Mexico land border crossing.[8]

CBP does record, by country, the number of dogs imported with formal entry under Harmonized Tariff Schedule (HTS) code 0106199120 and HTS Description: Other live animals, other, dogs. The total number of dogs imported into the United States from all countries under this HTS category varied from 25,232 in 2018 to 58,540 in 2020. The number of dogs from high-risk countries under this HTS category averaged 16,390 and varied from 9,966 to 24,031 over this 3-year period. The number of dogs reported under this HTS category does not include dogs imported as checked baggage, hand-carried in airplane cabins, or crossing at land borders without formal entry. Thus, the number underestimates the true number of dogs imported into the United States.

The importation of just one dog infected with CRVV risks re-introduction of the virus into the United States resulting in a potential public health risk with consequent monetary cost and potential loss of human and animal life.[9] [10] [11] CRVV has been highly successful at adapting to new host species, particularly wildlife.[12] One CRVV-infected dog could result in transmission to humans, domestic pets or wildlife. The importation in 2019 of a single dog with rabies cost more than $400,000 USD for the public health investigations and rabies port-exposure prophylaxis (PEP) of exposed persons.[13] [14]

Since 2015 there have been three known rabid dogs imported into the United States. All three dogs were rescue dogs imported by different rescue organizations for the purposes of adoption. These three cases, discussed below, highlight the immense public health resources required to investigate, respond to, and mitigate the public health threat posed by the importation.

In 2015, a rabid dog was part of a group of eight dogs and 27 cats imported from Egypt by a rescue group. The dog had an unhealed leg fracture and began showing signs of rabies four days after arrival. Following the rabies diagnosis, the rescue workers in Egypt admitted that the dog's rabies vaccination certificate had been intentionally falsified to evade CDC entry requirements.[15] Eighteen persons were recommended to receive rabies PEP, seven dogs underwent a six-month quarantine, and eight additional dogs housed in the same home as the rabid dog had to receive rabies booster vaccinations and undergo a 45-day monitoring period.

In 2017, a ''flight parent'' (a person solicited through social media, often not affiliated with the rescue organization, and usually compensated with an airline ticket) imported four dogs on behalf of a rescue organization. One of the dogs appeared agitated at the airport and bit the flight parent prior to the flight. The dog also had tooth fractures from reportedly having been hit by a car. A U.S. veterinarian examined the dog one day after its arrival and then euthanized and tested the dog for rabies. A post-mortem rabies test showed that the dog was positive for the virus. Public health officials recommended that at least four people receive rabies PEP, and the remaining three dogs underwent quarantine periods ranging from 30 days to 4 months. An investigation revealed the possibility of falsified rabies vaccination documentation presented on entry to the United States.[16]

In 2019, twenty-six dogs were imported into the United States by a rescue organization. All dogs had rabies vaccination certificates and serologic documentation, indicating the development of rabies antibodies (in response to immunization), based on results from an Egyptian government-affiliated rabies laboratory. However, one dog developed signs of rabies three weeks after arrival and had to be euthanized. The dog tested positive for rabies. Forty-four persons received PEP, and the 25 dogs imported on the same flight underwent re-vaccination and quarantines of 4–6 months. An additional 12 dogs had contact with the rabid dog and had to be re-vaccinated and undergo quarantine periods ranging

[5] CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. Fed Register 2019;84:724–730. *https://www.federalregister.gov/documents/2019/01/31/2019-00506/guidance-regarding-agency-interpretation-of-rabies-free-as-it-relates-to-the-importation-of-dogs.*

[6] *https://www.cdc.gov/importation/bringing-an-animal-into-the-united-states/rabies-vaccine.html.*

[7] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[8] McQuiston, J.H., et al., Importation of dogs into the United States: risks from rabies and other zoonotic diseases. Zoonoses Public Health, 2008. 55(8–10): p. 421–6.

[9] Smith J, le Gall F, Stephenson S, et al. People, pathogens and our planet. The Economics of One Health 2012;2.

[10] Raybern, C et al. Rabies in a dog imported from Egypt-Kansas, 2019. Morb Mort Wkly 2020; 69 (38): 1374–1377.

[11] Jeon S, Cleaton J, Meltzer M, et al. Determining the post-elimination level of vaccination needed to prevent re-establishment of dog rabies. *PLoS Neg Trop Dis 2019; 13 (12): e0007869.*

[12] Velasco-Villa A, Mauldin MR, Shi M, et al. The history of rabies in the Western Hemisphere. *Antiviral Res.* 2017;146:221–232. doi:10.1016/j.antiviral.2017.03.013.

[13] Raybern, C et al. Rabies in a dog imported from Egypt-Kansas, 2019. Morb Mort Wkly 2020; 69 (38): 1374–1377.

[14] *https://www.cdc.gov/rabies/medical_care/index.html.*

[15] Sinclair JR, Wallace RM, Gruszynski K, et al. Rabies in a dog imported from Egypt with a falsified rabies vaccination certificate—Virginia, 2015. MMWR Morb Mortal Wkly Rep 2015;64:1359–62. *https://doi.org/10.15585/mmwr.mm6449a2.*

[16] Hercules Y, Bryant NJ, Wallace RM, et al. Rabies in a dog imported from Egypt—Connecticut, 2017. MMWR Morb Mortal Wkly Rep 2018;67:1388–91. *https://doi.org/10.15585/mmwr.mm6750a3.*

from 45 days to 6 months based on their previous vaccination status.[17]

HHS/CDC estimates a range of costs for public health investigations and subsequent cost of care for people exposed to rabid dogs to cost between $215,386 and $508,879 per importation event as summarized in Section IV.[18] [19] This cost estimate does not account for the worst-case outcomes, which include (1) transmission of rabies to a person who dies from the disease or (2) ongoing transmission to other domestic and wildlife species in the United States. Re-establishment of CRVV into the United States, while unlikely, could result in costly efforts over several years to again eliminate the virus.

A previous campaign to eliminate domestic dog-coyote rabies virus variant jointly with gray fox (Texas fox) rabies virus variant in Texas over the period from 1995 through 2003 cost $34 million [20] [21], or $52 million in 2019 U.S. dollars. Since January 2020, public health resources globally have been diverted to COVID–19 response activities which may have caused a lapse in canine rabies vaccination efforts in high-risk countries. The increased number of dogs with inadequate or falsified rabies vaccination certificates arriving in the United States [22] may increase the likelihood of a CRVV-importation event. An importation of a dog with CRVV would divert U.S. public health resources away from ongoing and time sensitive COVID–19 response activities.

On January 21, 2020, CDC launched an agency-wide response to the COVID–19 pandemic, dedicating over 7,200 of the approximately 10,000 CDC personnel to support the outbreak response. CDC's focus from the beginning has been to assist health departments, frontline healthcare workers, businesses, communities, and the public to protect themselves and save lives. As of March 15, 2021, over one thousand CDC personnel have conducted 3,150 deployments to 265 cities across the United States and abroad, and over three thousand documents have been developed providing information and guidance for government agencies, business and the public.[23] The unprecedented nature of this public health response has naturally drawn federal, state, and local public health resources away from other important public health efforts, including preventing the reimportation of CRVV into the United States.

Historically, approximately 60–70% of CDC's dog entry denials (or about 200 cases annually) have been due to fraudulent paperwork.[24] This number is less than 1 percent of dog importations. Between January and December 2020, (during the COVID–19 pandemic), CDC documented more than 450 instances of incomplete, inadequate, or fraudulent rabies vaccination certificates for dogs arriving from high-risk countries. These cases resulted in the dogs being denied entry into the United States and returned to their countries of origin. The increase in the number of dogs inadequately vaccinated against rabies that importers are attempting to import into the United States has created a public health risk of importing CRVV into the U.S. and public health management of these dogs is unsustainable during the current COVID–19 pandemic.

To be considered complete and adequate, rabies vaccination certificates currently must include all the following information:

- Name and address of owner
- Breed, sex, date of birth (approximate age if date of birth unknown), color, markings, and other identifying information for the dog
- Date of rabies vaccination and vaccine product information
- Date the vaccination expires
- Name, license number, address, and signature of veterinarian who administered the vaccination

Upon the dog's arrival, federal officials examine the rabies vaccination certificates and ensure the description of the dog listed on the paperwork matches the dog presented. For a rabies vaccine to be effective, the dog must be at least 12 weeks (84 days) of age at the time of administration. A dog's initial vaccine must also be administered at least 4 weeks (28 days) before arrival in the United States.

CDC has documented instances of fraudulent paperwork for dogs based on various factors. These include: Dogs that were younger than the age indicated on their rabies vaccination paperwork—based on dental examination by U.S. veterinarians; differences between the breed, sex, color, or microchip number listed on the rabies vaccine certificate and the dog presented for entry; suspicious veterinary stamps and inconsistent signatures between different veterinary paperwork; inconsistent dates of rabies vaccination between different veterinary documents; and vaccines administered after expiration date of the vaccine lot.

Under CDC's regulatory authority, dogs arriving from high-risk countries without appropriate rabies vaccination certificates are denied entry and returned to the country of origin on the next available flight.[25] Airlines are required to house dogs awaiting return to their country of origin at a facility, preferably a live animal care facility, that has an active custodial bond and a Facilities Information and Resource Management System (FIRMS) code issued by U.S. Customs and Border Protection (CBP), which indicates the facility can provide accommodation that meets the US Department of Agriculture's Animal Welfare Act standards. However, there are insufficient live animal care facilities with a CBP-issued FIRMS code available to house dogs that are denied entry. Currently only one facility exists nationwide (*www.arkjfk.com*).

If a live animal facility with a CBP-issued FIRMS code is not available, the airline must, at a minimum, provide accommodation that meets the U.S. Department of Agriculture's Animal Welfare Act standards.[26] Many airlines choose to leave dogs in cargo warehouses, which can create an unsafe environment for the dogs due to the prolonged periods of time between flights, inadequate cooling and heating, unacceptable cleaning and sanitization of crates, and inability to physically

[17] Raybern, C et al. Rabies in a dog imported from Egypt-Kansas, 2019. Morb Mort Wkly 2020; 69 (38): 1374–1377.

[18] Raybern, C et al. Rabies in a dog imported from Egypt-Kansas, 2019. Morb Mort Wkly 2020; 69 (38): 1374–1377.

[19] CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. Fed Register 2019;84:724–730. *https://www.federalregister.gov/documents/2019/01/31/2019-00506/guidance-regarding-agency-interpretation-of-rabies-free-as-it-relates-to-the-importation-of-dogs*.

[20] TJ Sidwa et al. (2005) Evaluation of oral rabies vaccination programs for control of rabies epizootics in coyotes and gray foxes: 1995–2003. Journal of the American Veterinary Medicine Association; 227(5):785–92.

[21] R.T. Sterner et al. (2009) Tactics and Economics of Wildlife Oral Rabies Vaccination, Canada and the United States. Emerging Infectious Diseases; 15(8), 1176–1184.

[22] Centers for Disease Control and Prevention. Quarantine Activity Reporting System (version 4.9.8.8.2.2A). Dog Importation data, 2018–2020. Accessed: 15 February 2021.

[23] *https://www.cdc.gov/coronavirus/2019-ncov/cdcresponse/by-the-numbers.html*.

[24] Centers for Disease Control and Prevention. Quarantine Activity Reporting System (version 4.9.8.8.2.2A). Dog Importation data, 2010–2019. Accessed: 15 February 2021.

[25] Centers for Disease Control and Prevention. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as it Relates to the Importation of Dogs into the United States. **Federal Register** Notice; Vol. 84, No. 21. 31 January 2019. Available at: 2019–00506.pdf (*govinfo.gov*).

[26] U.S. Department of Agriculture. Animal Welfare Regulations; Part 3, Subpart A: Transportation Standards. Sections 3.14–3.20. July 2020. Available at: USDA Animal Care: Animal Welfare Act and Animal Welfare Regulations.

separate the animals from areas of the warehouse where other equipment, machinery, and goods are used and stored.

During 2020, due to the COVID–19 pandemic, there were fewer international flights worldwide,[27] [28] resulting in delayed returns for dogs denied entry. In August 2020, while in the custody of an airline, a dog died at Chicago O'Hare International Airport after CDC denied entry based on falsified rabies vaccination certificates. Despite CDC's request to find appropriate housing at a local kennel or veterinary clinic, the airline left the dog, along with 17 other dogs, in a cargo warehouse without food and water for more than 48 hours.[29]

While airlines are ultimately responsible for finding appropriate housing for dogs denied entry, the decreased number of flights combined with inadequate numbers of live animal care facilities with a CBP-issued FIRMS code for holding animals creates significant administrative and financial burden for federal, state, and local governments. The government may be required to find individualized solutions to ensure appropriate accommodations for prolonged periods of time for these animals.

While costs associated with housing, caring for dogs, and returning dogs are the responsibility of the importer (or airline if the importer abandons the dog), some importers and airlines are reluctant to pay these costs, requiring the Federal government to find appropriate interim housing facilities and veterinary care. The cost for housing, care, and returning improperly vaccinated dogs ranges between $1,000–$4,000 per dog depending on the location and time required until the next available return flight. The Federal government bears these costs when airlines and importers do not.

During 2020, CDC observed a 52% increase in dogs that were ineligible for entry compared to 2018 and 2019.[30] The increasing demand to vaccinate and quarantine dogs that have been denied entry presents an increased burden to federal, state and local public health agencies already responding to the COVID pandemic. The increased inspections, medical care, and appropriate quarantine of dogs inadequately vaccinated against rabies has financially burdened federal and state public health agencies.

Between May through December 2020, CDC spent more than 3,000 personnel-hours at an estimated cost of $270,000 to respond to the attempted importation of unvaccinated or inadequately vaccinated dogs from high-risk rabies countries during these eight months. The time spent represented a substantial increase from previous years because of (1) the 52% increase in dogs with inadequate documentation; and (2) the additional time spent identifying interim accommodations for the dogs because of the reduced outbound international flight schedules due to the pandemic. These are resources and personnel-hours diverted from CDC's current paramount objective in mitigating the COVID–19 pandemic and do not include time from other Federal, state, and local public health partners.

Pursuant to the terms of this notice, HHS/CDC is temporarily suspending the importation of dogs from high-risk countries. This suspension includes dogs originating in low-risk or CRVV-free countries that have been in a high-risk country in the previous six months (not including animals transiting through high-risk countries). The suspension will reduce the risk of importation of CRVV and preserve public health resources needed for the COVID–19 response. The suspension will also allow CDC to work with Federal and state partners, airlines, and other stakeholders to consider options for a more streamlined and efficient dog importation process that will be safer for pets. Most importantly, it will ensure that U.S. public health remains protected.

This notice creates a narrow set of exceptions for certain categories of dogs imported into the United States with advance written approval from CDC. The requirement for advanced written approval will help ensure that the limited number of dogs imported into the United State from high-risk countries have valid documentation of rabies vaccination upon entry. It will also mitigate the costs placed upon the U.S. government, airlines, and importers associated with reexporting dogs that do not meet CDC entry requirements.

## III. Advance Written Approval

The suspension provisions of this notice do not apply if advance written approval from CDC has been obtained to import a dog from a high-risk country that has been fully immunized against rabies. This includes a dog that has been in a high-risk country in the previous 6 months and is being imported from a low-risk or CRVV-free country. Such approvals will be granted on a limited and case-by-case basis and at CDC's discretion. CDC's decision will be considered final.

The following categories of importers are eligible to request advance written approval to import a dog into the United States:

- U.S. government personnel who are relocating back to the United States with Permanent Change of Station (PCS) orders or Temporary Duty (TDY) orders.[31]
- U.S. citizens and lawful residents relocating to the United States. The application should include written documentation from an employer or other official source stating the reason for the relocation, such as a letter by an employer or university stating that the U.S. citizen or lawful resident is relocating for reasons of employment or education.
- Importers who wish to import dogs for purposes related to science, education, or exhibition, as these terms are defined in 42 CFR 71.50, or for a bona fide law enforcement purpose.
- Owners of service animals, if the dog is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. In accordance with U.S. Department of Transportation regulations at 14 CFR part 382, emotional support animals, comfort animals, companionship animals, and service animals in training are not considered service animals for the purposes of this Notice.

During this temporary suspension, importers who meet the eligibility criteria listed above may make a one-time request to import up to three dogs as part of a single importation. All dogs must be six months of age or older at the time of entry and, as further explained in this notice, must enter the United States at a port of entry with a live animal care facility with a CBP-issued FIRMS code. Importers of dogs for science, education, or exhibition, as these terms are defined in 42 CFR 71.50, or bona fide law-enforcement purposes may import more than three dogs.

To request the advance written approval of the CDC, importers who

[27] *https://www.cnbc.com/2020/04/02/coronavirus-update-american-airlines-cuts-summer-international-flights-by-60percent-as-demand-suffers.html.*

[28] *https://news.aa.com/news/news-details/2020/American-Airlines-Announces-Additional-Schedule-Changes-in-Response-to-Customer-Demand-Related-to-COVID-19-031420-OPS-DIS-03/default.aspx.*

[29] Dog Dies At O'Hare Airport Warehouse, 17 Others Saved After Being Left Without Food Or Water For 3 Days—CBS Chicago (*cbslocal.com*).

[30] Centers for Disease Control and Prevention. Quarantine Activity Reporting System (version 4.9.8.8.2.2A). Dog Importation data, 2018–2020. Accessed: 15 February 2021.

[31] PCS Order definition *https://www.gsa.gov/policy-regulations/regulations/federal-travel-regulation-ftr/i1186607#i1186607.*

meet the eligibility criteria listed above must submit the Application for a Permit to Import a Dog Inadequately Immunized Against Rabies, (approved under OMB Control Number 0920–0134 Foreign Quarantine Regulations (exp. 03/31/2022), or as revised). To request an application for the permit, an importer must send an email to the Director, Division of Global Migration and Quarantine, at *cdcanimalimports@cdc.gov.*

Once an importer receives instructions and the permit application, the importer's request with all supporting documentation must be submitted at least 30 business days before the date on which the dog will enter the United States. A request cannot be made at the port of entry upon the dogs' arrival into the United States; dogs that arrive without advance written approval from the CDC will be returned to their country of origin on the next available flight. As required by the permit application, a request must present sufficient and reliable evidence conclusively demonstrating that the dog to be imported has been fully immunized against rabies.[32] Such evidence includes:

1. A valid rabies vaccination certificate that was issued in the United States by a U.S.-licensed veterinarian. The certificate must state that the vaccine was administered on or after the dog was 12 weeks (84 days) of age and at least 28 days prior to entry, if it was the dog's initial vaccine. OR

2. A valid rabies vaccination certificate from a non-U.S.-licensed veterinarian AND serologic evidence of rabies vaccination from an approved rabies serology laboratory [33] (serologic results >0.5IU/mL required)collected in accordance with the OIE Terrestrial Manual.[34] The certificate must state that the vaccine was administered on or after the dog was 12 weeks (84 days) of age and at least 28 days prior to entry, if it was the dog's initial vaccine. The certificate must be in English or accompanied by a certified English translation.

Furthermore, based on the circumstances, an importer may also be required to submit the following:

- Permanent Change of Station (PCS) orders, or Temporary Duty Orders (TDY) (U.S. Government personnel);
- Documentation or evidence that the dog to be imported is a service dog (as defined in this Notice);
- Employment letter or other evidence of relocating to the United States after living abroad; or
- Other justification that meets the above-listed eligibility criteria along with supporting documentation.

Dogs arriving from a high-risk country with a CDC permit must enter the United States at a port of entry with a live animal care facility with a CBP-issued FIRMS code that can provide accommodation that meets the U.S Department of Agriculture's Animal Welfare Act standards. Currently, John F. Kennedy International Airport in New York City is the only U.S. port of entry with a live animal care facility that meets these standards. However, if any additional ports of entry become capable of meeting these standards, CDC will publish the list of ports of entry in the **Federal Register** and on the CDC animal importation website. Animals imported for bona fide law-enforcement purposes are not required to enter the United States at a port of entry with a live animal care facility with a CBP-issued FIRMS code.

CDC additionally requires dogs arriving from a high-risk country with a CDC permit be microchipped on or before the date that they receive their rabies vaccination. The microchip number must be listed on the rabies vaccination certificate. Photographs of the dog's teeth are required for age verification. CDC will respond to an importer's request in writing and may impose additional conditions in granting the approval. An importer must present CDC's written response and approval upon entry into the United States. If a request for advance approval is denied, CDC's written denial will constitute final agency action.

Any dog from a high-risk country will be excluded from entering the United States and returned to its country of origin on the next available flight, regardless of carrier or route, if it arrives without advance written approval from the CDC, arrives at a port of entry without a live animal care facility with a CBP-issued FIRMS code, or if the animal presented does not match the description of the animal listed on the permit. The importer (or airline carrier if the importer abandons the animal) will be financially responsible for all housing, care, and return costs. In keeping with current practice, importers should continue to check with Federal, state, and local government officials regarding additional requirements of the final destination prior to entry or re-entry into the United States.

## IV. Economic Impact of This Temporary Suspension

Executive Orders 12866: ''Regulatory Planning and Review'' and 13563: ''Improving Regulation and Regulatory Review'' 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Although the temporary suspension of dogs from countries at high-risk for CRVV is expected to reduce the number of dogs imported into the United States, importers of dogs from high-risk countries will be able to submit a request for advanced written permission at least 30 days prior to planned importation in the United States. Thus, some importers will be able to import up to three dogs from high-risk countries with CDC-issued permits.

CDC has previously estimated that between 87,000 and 116,000 dogs are imported from high-risk countries each year.[35] This estimate is significantly greater than the numbers recorded by CBP for formal entry under HTS code 0106199120 and HTS Description: Other live animals, other, dogs, which averaged 16,390 and varied from 9,966 to 24,031 over the 3-year period from 2018 through 2020.

The number of dogs reported under this HTS category do not include hand-carried dogs traveling in airplane cabins or crossing at land borders without formal entry and, thus, are not inclusive of all dog imports. To account for the uncertainty in the number of dogs imported to the United States from high-risk countries without formal entry, CDC used the following assumptions in the analysis of this action: (1) Most likely estimate: 3 times the average number of dogs with formal entry from 2018–2020 = 60,696 dogs per year, (2) Lower bound: 2 times the average number of dogs with formal entry from 2018–2020 = 32,781, and (3) Upper bound: 5 times the number of dogs arriving in the highest year (2019) =

[32] The permit is currently under revision (Permit to Import a Dog Inadequately Immunized Against Rabies, (OMB Control Number 0920–0134 Foreign Quarantine Regulations (exp. 03/31/2022)). Despite the permit application's current title, inadequately immunized dogs do not qualify for the exception.

[33] Will provide link to CDC website with list of approved laboratories.

[34] OIE Terrestrial Animal Health Code. Chapter 5.11. Available at: Access online: OIE—World Organisation for Animal Health.

[35] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

120,155. These baseline estimates are used throughout the analysis (Table 1).

CDC assumed that the temporary suspension would reduce the number of dogs imported from high-risk countries by 75% and considered a range of 50%–90% to calculate lower and upper bound estimates. This would result in estimates of 15,124 (range: 3,203–60,040 dogs) dogs imported with CDC-issued permits per year with the suspension in place. The temporary suspension would reduce the estimated numbers of dogs imported per year by 45,572 (range: 29,758–60,115). CDC also estimated the numbers of dogs denied entry under the baseline and with the temporary suspension in effect. An estimated 500 (range: 300–750) dogs would be denied entry under the baseline based on data from 2020 and previous years. The temporary suspension and CDC permit process are expected to reduce the number of dogs denied entry by 90% (range: 75%–95%) such that only 50 (range: 15–188) dogs would be denied entry with the temporary suspension.

TABLE 1—ESTIMATED NUMBERS OF DOGS FROM HIGH-RISK COUNTRIES IMPORTED OR DENIED ENTRY UNDER THE BASELINE AND WITH THE TEMPORARY SUSPENSION

| | Most likely estimate | Lower bound | Upper bound |
|---|---|---|---|
| Estimated number of dogs imported from high-risk countries at baseline | 60,696 | 32,781 | 120,155 |
| Estimated % reduction in number of dogs imported from high-risk countries with temporary suspension | 75% | 90% | 50% |
| Estimated number of dogs imported from high-risk countries with temporary suspension | 15,174 | 3,278 | 60,078 |
| Change in number of dogs imported from high-risk countries | 45,522 | 29,503 | 60,078 |
| Estimated number of dogs denied entry from high risk countries at baseline | 500 | 300 | 750 |
| Estimated % reduction in dogs denied entry with temporary suspension | 90% | 95% | 75% |
| Estimated number of dogs denied entry with temporary suspension | 50 | 15 | 188 |
| Change in numbers of dogs denied entry with temporary suspension | 450 | 285 | 563 |

The estimated costs and benefits (in 2019 U.S. dollars) associated with the temporary suspension of dogs from countries at high-risk for CRVV are summarized in Table 2. CDC estimates that importers, CDC, and DHS/CBP will incur about $11.8 million in costs (range: $2.2–$57.6 million) over the one-year period anticipated for the suspension. The large difference between the lower and upper bound is due to both uncertainty in the number of dogs imported from high-risk countries under the baseline as well as uncertainty in many of the costs associated with the suspension.

Most of the costs will be incurred by importers (most likely estimate of $10.8 million, 91% of the total), who will have to (1) spend time requesting advance written permission, (2) pay for serologic testing unless the imported dog already has a valid U.S. rabies vaccination certificate issued by a U.S.-licensed veterinarian, (3) re-route travel to a port of entry with a live animal care facility with a CBP-issued FIRMS code, and (4) the potential economic costs of being unable to import a dog from a high-risk country (either the inability to travel with a pet from a high-risk country or the need to substitute the importation of a dog from CRVV-free or low-risk country instead of a dog from a high-risk country).

The one-year benefits (averted costs) from the temporary suspension are estimated to be $2.3 million, range: $1.0–$5.1 million). Most of the benefits (most likely estimate of $1.5 million, 64% of total) of the temporary suspension accrue to CBP due to the reduction in the number of dogs imported from high-risk countries (which require screening), the number of dogs denied entry, and an estimated decrease in the amount of time to review a CDC permit vs. the time required to review documentation under the baseline. Importers, CDC, and airlines also benefit from the averted costs associated with the reduction in the number of dogs denied entry with the suspension relative to baseline. The net cost of the temporary suspension is calculated from the annual costs − annual benefits resulting in an estimate of $9.5 million (range: $1.2–$52.5 million).

TABLE 2—SUMMARY TABLE OF COSTS AND BENEFITS IN 2019 DOLLARS, OVER A 1-YEAR TIME HORIZON

| Category | Most likely estimate | Lower bound | Upper bound |
|---|---|---|---|
| Benefits: | | | |
| Annual monetized benefits to importers/owners of dogs from high risk countries | $579,260 | $215,765 | $1,508,443 |
| Annual monetized benefits to airlines | 54,000 | 11,400 | 168,750 |
| Annual monetized benefits to DHS/CBP | 1,491,418 | 678,417 | 3,055,534 |
| Annual monetized benefits to HHS/CDC | 198,369 | 92,153 | 398,948 |
| Total annualized monetized benefits | 2,175,209 | 920,521 | 4,836,488 |
| Quantified, but unmonetized, benefits | The estimated response costs associated with a dog imported while infected with canine rabies virus variant (CRVV) are $315,682, range: $215,386 to $508,879. The permit requirement for high risk countries should reduce the risk of importation of dogs infected with CRVV. | | |

TABLE 2—SUMMARY TABLE OF COSTS AND BENEFITS IN 2019 DOLLARS, OVER A 1-YEAR TIME HORIZON—Continued

| Category | Most likely estimate | Lower bound | Upper bound |
|---|---|---|---|
| Qualitative benefits | Any importation of a dog with CRVV will require the reallocation of limited public health resources to support a response to mitigate the risk of transmission of CRVV. This could reduce the effectiveness of COVID–19 response activities and vaccination programs. In addition, these competing priorities may increase the risk of unlikely, but very costly outcomes associated with an importation of a dog with CRVV such as (1) the potential risk of death in a person who may be unaware of his/her exposure to a dog with CRVV and (2) the risk of reintroduction of CRVV in the United States. | | |
| Costs: | | | |
| Annualized monetized costs to Importers/owners of dogs from high risk countries | $10,752,595 | $1,956,530 | $54,191,420 |
| Annual monetized costs to airlines | 0 | 0 | 0 |
| Annualized monetized costs to DHS/CBP | 192,498 | 0 | 461,994 |
| Annual monetized costs to HHS/CDC | 848,142 | 280,952 | 2,974,298 |
| Total annualized monetized costs | 11,793,199 | 2,237,473 | 57,627,615 |

The primary public health benefit of the temporary suspension is the reduced risk that a dog with CRVV will be imported from a high-risk country. Based on experience with previous importations, CDC estimated the cost per imported dog with CRVV to be $315,682, range $215,386 to $508,879.[36] [37] This cost estimate includes health department staff time for the public health response, payments for post-exposure prophylaxis for exposed persons, and the costs associated with quarantining or euthanizing exposed animals. Any importation of a dog with CRVV would also likely divert public health resources away from COVID–19 response activities.

Using the most likely estimates of the net cost ($9.5 million) and the most likely estimate of the potential benefits of averting the importation of a dog with CRVV from a high-risk country ($316,000), it is possible to calculate how many dogs with CRVV would need to be imported under the baseline for the benefits to equal costs. The net costs ($9.5 million) divided by the cost per importation ($316,000) suggests that at least 30 dogs with CRVV would need to be imported under the baseline for benefits to exceed costs. This would require a huge increase in the number of dogs imported into the United States while infected with CRVV, which could only occur as a result of widespread failures of rabies control programs in multiple high-risk countries.

The above estimate of the cost of an importation of a dog with CRVV does not account for the worst-case outcomes, which include (1) transmission of rabies to a person who dies from the disease or (2) ongoing transmission to other domestic and wildlife species in the United States. Re-establishment of CRVV into the United States, while unlikely, could result in costly efforts over several years to again eliminate the virus.

The cost of re-introduction could be especially high if CRVV spreads to other species of U.S. wildlife. Both of these worst-case outcomes may be more likely to occur during the COVID–19 pandemic because public health resources have been diverted to COVID–19 response activities and vaccination programs.

Human deaths from rabies continue to occur in the United States after exposures to wild animals. However, no U.S. resident has died after exposure to an imported dog with CRVV in at least 20 years. CDC uses the value of statistical life (VSL) to assign a value to interventions that can result in mortality risk reductions. For 2019, the estimated VSL is $10.6 million with a range of $5.0 to $16.2 million.[38] However, CDC is unable to estimate the potential magnitude of the mortality risk reduction associated with the temporary suspension.

Re-establishment of CRVV into the United States, while unlikely, would also result in costly efforts over a number of years to eliminate the virus. A previous campaign to eliminate domestic dog-coyote rabies virus variant jointly with gray fox (Texas fox) rabies virus variant in Texas over the period from 1995 through 2003 cost $34 million,[39] [40] or $52 million in 2019 U.S. dollars. The costs to contain any reintroduction would depend on the time period before the reintroduction was realized, the wildlife species in which CRVV was transmitted, and the geographic area over which reintroduction occurs. The above estimate is limited to the cost of rabies vaccination programs for targeted wildlife and does not include the costs to administer post-exposure prophylaxis to any persons exposed after the reintroduction has been identified.

**Assumptions Used To Estimate Costs and Benefits**

CDC estimated costs and benefits to importers, CDC, CBP, and airlines under the baseline and with the temporary

[36] Raybern, C et al. Rabies in a dog imported from Egypt-Kansas, 2019. Morb Mort Wkly 2020; 69 (38): 1374–1377.

[37] CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. Fed Register 2019;84:724–730. *https://www.federalregister.gov/documents/2019/01/31/2019-00506/guidance-regarding-agency-interpretation-of-rabies-free-as-it-relates-to-the-importation-of-dogs.*

[38] HHS/ASPE, 2016. Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. Guidelines for Regulatory Impact Analysis. *https://aspe.hhs.gov/system/files/pdf/242926/HHS_RIAGuidance.pdf.* Accessed April 20, 2020.

[39] TJ Sidwa et al. (2005) Evaluation of oral rabies vaccination programs for control of rabies epizootics in coyotes and gray foxes: 1995–2003. Journal of the American Veterinary Medicine Association; 227(5):785–92.

[40] R.T. Sterner et al. (2009) Tactics and Economics of Wildlife Oral Rabies Vaccination, Canada and the United States. Emerging Infectious Diseases; 15(8), 1176–1184.

suspension in place. All cost estimates were converted to 2019 U.S. dollars. The costs to importers with the temporary suspension were calculated using the following assumptions:

- The opportunity costs for importer time were estimated at $36.41 (range: $25.72–$47.10) per hour based on the average U.S. wage rate and a Department of Transportation estimate specific to international travelers.[41] [42]
- Importers seeking advance written permission for 15,124 (range: 3,263–59,890) dogs.
  - An assumption of 1 hour (range 0.5—2 hours) to submit advance written approval and fulfill the informational and testing requirements for a permit.
  - Estimated costs of $50 (range: $20–$65) for a rabies titer test at an approved rabies serology laboratory.[43]
  - Assumed cost of $100 (range: $80–$120) for a veterinarian to draw blood sample and ship it to an approved rabies serology laboratory.
  - Estimated cost of $40 (range: $25–$50) to implant a microchip.[44]
  - An assumption that 40% of importers will already have a valid rabies vaccination certificate issued by a U.S.-licensed veterinarian and will not need testing from an approved rabies serology laboratory or microchip.
  - An assumption that 75% of importers of dogs from high-risk countries would need to re-route travel to a port of entry with a live animal care facility with a CBP-issued FIRMS code, which would incur an increased ticket cost of $200 and 4 additional hours of travel time.
- Importers who are unable to import a dog from a high-risk country because of the temporary suspension (45,572, range: 29,518–60,265 dogs) would incur an assumed cost of $100 (range: $50–$400) per dog because of time spent away from pets or increased costs of substitution to import a dog from a CRVV-free or low-risk country.

The costs for CDC were estimated based on:

- An assumed staff time cost of 20 minutes (range: 15–30 minutes) per permit issued by a GS–12, step 5 reviewer.
- Oversight of the permit process by two GS–13, step 5 veterinarians.
- 30 minutes of staff time to revise training materials for CBP staff.
- CDC staffing costs are estimated using the GS pay scale for the Atlanta area and multiplying by 2 to account for non-wage benefits and overhead.

The costs for CBP included 5 minutes (range 0–10 minutes) for 25,052 (range: 20,402–30,602) CBP officers (average level GS–12, step 5) to receive training on the temporary suspension. CBP staffing costs are estimated using the GS pay scale for the Washington, DC area and multiplying by 2 to account for non-wage benefits and overhead.

CDC assumed that airlines would not incur new costs for this temporary suspension because the time required to review CDC-issued permits prior to boarding dogs from high-risk countries should be similar to the amount of time required to review vaccination certificates under the current baseline. There may be some reduction in cargo fees revenue associated with the reduction in dogs imported from countries at high risk for CRVV (range: 29,518–60,265 dogs), but this lost revenue may be offset by revenues received to import dogs from CRVV-free or low-risk countries or revenue received for cargo other than dogs. CDC lacks sufficient data to estimate such costs but expects the net cost to airlines to be limited.

The expected annual benefits (averted costs) were estimated for importers, CDC, CBP, and airlines based on the reduced numbers of dogs delayed entry and the reduced time spent by CBP officers to screen dogs from high-risk countries.

The estimated benefits (averted costs) for importers were estimated based on:

- An estimated reduction in time spent by CBP to review documentation for dogs from high-risk countries assuming an estimate of 17 minutes (range: 13.6–20.4 minutes) per dog to review documentation under the baseline[45] to 5 minutes (range: 3–8 minutes) per dog to review permits during the suspension.
- An estimated 2 hours per dog denied entry (estimated at 450 fewer dogs denied entry, range: 285–563) with the suspension relative to baseline.
- CDC assumed that 80% of dogs denied entry would be re-imported to the United States at a round-trip cost of $1,200 per dog to the importer.[46]
- CDC assumed that 20% of dogs denied entry would be abandoned by importers at a cost of $100 per dog to the importer.

The estimated benefits (averted costs) to CDC were estimated based on:

- An estimated 4 hours of CDC staff time per dog denied entry at an average GS-level 13, step 5 at CDC Headquarters and an average of 30 minutes of CDC quarantine station staff time per dog denied entry at an average GS-level 11, step 5. The actual mix of staff at CDC Headquarters who need to support denials of entry would vary from GS–11 through Senior Executive Staff and varies depending on time spent on appeals and finding shelter for abandoned dogs.

The estimated benefits (averted costs) to CBP were estimated based on:

- An estimated reduction in the number of dogs imported from high-risk countries due to the temporary suspension: 45,572 (range: 29,758–60,115) relative to baseline.
- Under the baseline, CDC estimated that each dog imported from a high-risk country requires 17 minutes (range: 13.6–20.4 minutes) of CBP officer time to review documents (GS–12, step 5).[47]
- With the temporary suspension in place, CDC estimates that the time required to review CDC-issued permits would decrease from the above to 5 (range: 3–8) minutes per dog for the estimated 15,124 (range: 3,263–59,890) dogs arriving with permits.
- An estimated reduction in the number of dogs denied entry because of the temporary suspension: (estimated at 450 fewer dogs denied entry, range: 285–563).
- An estimate of 71 (range: 47–95) minutes of CBP staff time required per dog denied entry (GS–12, step 5).[48]

The estimated benefits (averted costs) for airlines were estimated based on:

- The reduction in the estimated numbers of dogs denied entry and abandoned by importers (100 under the baseline vs. 10 with the suspension of entry).

[41] Bureau of Labor Statistics in the May 2019 National Occupational Employment and Wage Estimates United States *https://www.bls.gov/oes/current/oes_nat.htm.*

[42] U.S. Department of Transportation, Office of Transportation Policy. The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2016 Update), ''Table 4 (Revision 2—2016 Update): Recommended Hourly Values of Travel Time Savings.'' September 27, 2016. *https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf.* Accessed June 4, 2020.

[43] United Kingdom Animal and Plant Health Agency Laboratory Price List TC702. *https://science.vla.gov.uk/Tests/SearchResults.aspx?SiteName=CDT&PriceListCategoryId=33.* Accessed 11/1/2020.

[44] PetSide. How Much Does it Cost to Microchip a Dog. *https://www.petside.com/dog-microchip-cost/* Accessed 2/17/2021.

[45] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[46] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[47] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[48] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

• An assumed cost of $600 per dog for airlines to fly abandoned dogs back to their countries of origin.[49]

The costs associated with an importation of a dog with CRVV includes health department staff time for the public health response, payments for post-exposure prophylaxis treatment for exposed persons, and the costs associated with quarantining or euthanizing exposed animals. CDC estimated the response cost per imported dog with CRVV to be $315,682, range $215,386 to $508,879 based on the following assumptions:

• An estimate of 800 hours of health department staff time per importation.[50]

• The public health response time is split evenly among veterinarians (code 29–1131, $50.39 per hour), epidemiologists (19–1041, $37.64 per hour), registered nurses (29–1141, $37.24 per hour), licensed practical nurses (29–2061, $23.32 per hour), and office and administrative assistants (43–0000, $19.73 per hour).[51] [52] These wage estimates are multiplied by 2 to account for non-wage benefits and overhead.

• An average of 25 (range: 16–44) individuals will require post-exposure prophylaxis because of exposure to the dog with CRVV.[53] [54]

• The average cost of post-exposure prophylaxis was estimated to be $9,290.[55]

• An estimated 29.6 animals would need to be quarantined or euthanized due to exposure to the dog with CRVV.

• Each exposed animal would incur economic costs of $1,000 for quarantine or euthanasia.[56]

[49] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[50] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[51] Bureau of Labor Statistics, May 2019 National Occupational Employment and Wage Estimates. *https://www.bls.gov/oes/current/oes_nat.htm.*

[52] Bureau of Labor Statistics in the May 2019 National Occupational Employment and Wage Estimates United States *https://www.bls.gov/oes/current/oes_nat.htm.*

[53] Rayburn et al. (2020) Rabies in a Dog Imported from Egypt—Kansas, 2019. MMWR; 69(38): 1374–1377.

[54] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

[55] Rayburn et al. (2020) Rabies in a Dog Imported from Egypt—Kansas, 2019. MMWR; 69(38): 1374–1377.

[56] HHS/CDC. Guidance Regarding Agency Interpretation of ''Rabies-Free'' as It Relates to the Importation of Dogs Into the United States. (January 31, 2019) 84 FR 724: 724–730.

## V. Terms of This Notice

Therefore, pursuant to 42 CFR 71.51(e) and 42 CFR 71.63, and subject to the terms of this notice, CDC hereby excludes the entry and suspends the importation of dogs from high-risk countries, including dogs from low-risk and CRVV-free countries if the dogs have been present in a high-risk country in the previous six months.

Additionally, under 42 CFR 71.63, CDC finds that CRVV exists in countries designated as high-risk countries and that, if reintroduced into the United States, CRVV would threaten the public health of the United States. The continued entry of dogs from high-risk countries in the context of the current limited CDC resources and personnel diverted to respond to COVID–19 further increases the risk that CRVV may be introduced, transmitted, or spread into the United States. CDC has coordinated in advance with other federal agencies as necessary to implement and enforce this notice.

This notice is not a rule within the meaning of the Administrative Procedure Act (''APA''), but rather notice of an emergency action taken under the existing authority of 42 CFR 71.51(e) and 42 CFR 71.63. In the event that this notice qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and the opportunity to comment on this notice. Considering the public health emergency caused by the virus associated with COVID–19, the ongoing diversion of public health resources and personnel to respond to the pandemic, and the risk of reintroduction of CRVV from dogs being imported from high-risk countries, it would be impractical and contrary to the public's health, and by extension the public's interest, to delay the issuance and effective date of this notice.

Effective July 14, 2021: Pursuant to the exception, dogs from high risk-countries must be 6 months of age to be imported and fully vaccinated against rabies, and eligible importers may only import up to 3 dogs upon receipt of advanced written approval from the CDC. Importers wishing to import dogs from high-risk countries should:

1. Submit a request for advanced written permission (*i.e.,* Application for a Permit to Import a Dog Inadequately Immunized Against Rabies, (approved under OMB Control Number 0920–0134 Foreign Quarantine Regulations (exp. 03/31/2022), or as revised)) at least 30 days prior to planned importation in the United States.

2. Submit all documentation listed above in Section III Advanced Written Approval.

The request for advance written permission must include proof of the dog's identity including pictures of the dogs' teeth, other descriptive details, proof of rabies vaccination, and microchip information. Dogs arriving from high-risk countries must enter the United States at a port of entry with a live animal care facility with a CBP-issued FIRMS code that can provide accommodation that meets the U.S Department of Agriculture's Animal Welfare Act standards.

This temporary suspension will remain in place until the earliest of (1) the expiration of the Secretary of Health and Human Services' declaration that COVID–19 constitutes a public health emergency; (2) the CDC Director rescinds or modifies this suspension based on specific public health or other considerations; or (3) 360 days from publication in the **Federal Register**.

Dated: June 9, 2021.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2021–12418 Filed 6–14–21; 4:15 pm]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10494 and CMS–10773]**

### 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 August 16, 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: ____, 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 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–10494 Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel-CAC

CMS–10773 Non-Quantitative Treatment Limitation Analyses and Compliance Under MHPAEA

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:* Revision of a currently approved collection; *Title of Information Collection:* Exchange Functions: Standards for Navigators and Non-Navigator Assistance Personnel-CAC; *Use:* Section 1321(a)(1) of the Affordable Care Act directs and authorizes the Secretary to issue regulations setting standards for meeting the requirements under title I of the Affordable Care Act, with respect to, among other things, the establishment and operation of Exchanges. Pursuant to this authority, regulations establishing the certified application counselor program have been finalized at 45 CFR 155.225. In accordance with 155.225(d)(1) and (7), certified application counselors in all Exchanges are required to be initially certified and recertified on at least an annual basis and successfully complete Exchange required training. *Form Number:* CMS–10494 (OMB control number: 0938–1205); *Frequency:* On Occasion; *Affected Public:* State, Local, or Tribal Governments, Private Sector (not-for-profit institutions); individuals or households; *Number of Respondents:* 278,072; *Total Annual Responses:* 278,072; *Total Annual Hours:* 918,024. For policy questions regarding this collection contact Evonne Muoneke at 301–492–4402.

*2. Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Non-Quantitative Treatment Limitation Analyses and Compliance Under MHPAEA; *Use:* The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub. L. 110–343) generally requires that group health plans and group health insurance issuers offering mental health or substance use disorder (MH/SUD) benefits in addition to medical and surgical (med/surg) benefits do not apply any more restrictive financial requirements (*e.g.,* co-pays, deductibles) and/or treatment limitations (*e.g.,* visit limits, prior authorizations) to MH/SUD benefits than those requirements and/or limitations applied to substantially all med/surg benefits. The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, was enacted on March 30, 2010. These statutes are collectively known as the ''Affordable Care Act.'' The Affordable Care Act extended MHPAEA to apply to the individual health insurance market. MHPAEA does not apply directly to small group health plans, although its requirements are applied indirectly in connection with the Affordable Care Act's essential health benefit requirements. The Consolidated Appropriations Act, 2021 (the Appropriations Act) was enacted on December 27, 2020. The Appropriations Act amended MHPAEA, in part, by expressly requiring group health plans and health insurance issuers offering group or individual health insurance coverage that offer both med/surg benefits and MH/SUD benefits and that impose non-quantitative treatment limitations (NQTLs) on MH/SUD benefits to perform and document their comparative analyses of the design and application of NQTLs. Further, beginning 45 days after the date of enactment of the Appropriations Act, group health plans and health insurance issuers offering group or individual health insurance coverage must make their comparative analyses available to the Departments of Labor, Health and Human Services (HHS), and the Treasury or applicable state authorities, upon request. The Secretary of HHS is required to request the comparative analyses for plans that involve potential violations of MHPAEA or complaints regarding noncompliance with MHPAEA that concern NQTLs and any other instances in which the Secretary determines appropriate. The Appropriations Act also requires the Secretary of HHS to submit to Congress, and make publicly available, an annual report on the conclusions of the reviews. *Form Number:* CMS–10773 (OMB control number: 0938–1393); *Frequency:* On Occasion; *Affected Public:* State, Local, or Tribal Governments, Private Sector; *Number of Respondents:* 250,137; *Total Annual Responses:* 36,461; *Total Annual Hours:* 1,013,184. (For policy questions

regarding this collection, contact Usree Bandyopadhyay at 410–786–6650.)

Dated: June 10, 2021.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2021–12583 Filed 6–15–21; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel; NIDA–L Conflict SEP.

*Date:* July 22, 2021.

*Time:* 11:00 a.m. to 12:00 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:* Soyoun Cho, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, Room 09C63, Bethesda, MD 20892, (301) 594–9460, *Soyoun.cho@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: June 10, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–12623 Filed 6–15–21; 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; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

*Date:* July 7, 2021.

*Time:* 1:00 p.m. to 4:00 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 3F30A, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Ellen S. Buczko, 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 3F30, Rockville, MD 20852, (240) 669–5028, *ebuczko1@niaid.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: June 10, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–12622 Filed 6–15–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Eye Institute; 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 Eye Institute Special Emphasis Panel; BRAIN Initiative: New Concepts and Early-Stage Research for Recording and Modulation in the Nervous System (R21).

*Date:* July 20, 2021.

*Time:* 12:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Eye Institute, National Institutes of Health, Division of Extramural Research, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Brian Hoshaw, Ph.D., Designated Federal Official, National Eye Institute, National Institutes of Health, Division of Extramural Research, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 10, 2021.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–12625 Filed 6–15–21; 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; Notice of Special Interest (NOSI): Availability of Emergency Awards for Limited Clinical Trials to Evaluate Therapeutic and Vaccine Candidates Against SARS–CoV–2.

*Date:* July 14, 2021.

*Time:* 10:00 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 3F21B, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Maryam Feili-Hariri, 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 3F21B, Rockville, MD 20852, (240) 669–5026, *haririmf@niaid.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: June 10, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–12624 Filed 6–15–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket Number USCG–2019–0862]**

## Port Access Route Study: Approaches to the Chesapeake Bay, Virginia

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of availability of draft report; request for comments.

**SUMMARY:** On November 27, 2019 the Coast Guard published a notice of study and request for comments (84 FR 65398), announcing a Port Access Route Study (PARS) for the Approaches to the Chesapeake Bay, Virginia. This notice announces the availability of a draft report for public review and comment. We seek your comments on the content, proposed routing measures, and development of the report. The recommendations of the study may lead to future rulemakings or appropriate international agreements.

**DATES:** Your comments and related material must reach the Coast Guard on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by docket number USCG–2019–0862 using the Federal 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 notice or study, call or email Mr. Jerry Barnes, Fifth Coast Guard District (dpw), U.S. Coast Guard; telephone (757) 398–6230, email *Jerry.R.Barnes@uscg.mil*; or Captain Maureen Kallgren, Fifth Coast Guard District (dpw), U.S. Coast Guard; telephone (757) 398–6250, email *Maureen.R.Kallgren@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

DHS Department of Homeland Security
FR Federal Register
NEPA National Environmental Policy Act
PARS Port Access Route Study
ACPARS Atlantic Coast Ports Access Route Study
U.S.C. United States Code
WEA Wind Energy Area

### II. Background and Purpose

The Ports and Waterways Safety Act (46 U.S.C. 70003(c)) requires the Coast Guard to conduct a PARS, *i.e.,* a study of potential traffic density and the need for safe access routes for vessels. Through the study process, the Coast Guard coordinates with Federal, State, local, tribal and foreign state agencies (as appropriate) to consider the views of maritime community representatives, environmental groups, and other interested stakeholders. The primary purpose of this coordination is, to the extent practicable, to reconcile the need for safe access routes with other reasonable waterway uses such as construction and operation of renewable energy facilities and other uses of the Atlantic Ocean in the study area.

In 2019, the Coast Guard announced a supplemental study of routes used by all vessels to access ports on the Atlantic Coast of the United States (84 FR 9541, March 15, 2019). This notice announced PARS for specific port approaches and international transit areas along the Atlantic Coast. The purpose of the supplemental studies is to align the Atlantic Coast Port Access Route Study (ACPARS) (81 FR 13307, March 14, 2016) with port approaches. The ACPARS analyzed the Atlantic Coast waters seaward of existing port approaches within the U.S. Exclusive Economic Zone and was finalized in 2017 (82 FR 16510, April 5, 2017).

The purpose of this notice is to announce the draft PARS that examines the approaches to the Chesapeake Bay, VA, in conjunction with the implementation of recommendations of the ACPARS, and to solicit public comments. We encourage you to participate in the study process by submitting comments in response to this notice. This supplemental PARS used AIS data and information from stakeholders to identify and verify customary navigation routes as well as potential conflicts involving alternative activities, such as wind energy generation and offshore mineral exploitation and exploration in the approaches to the Chesapeake Bay, Virginia.

On November 27, 2019, the Coast Guard published a Notice of Study; request for comments entitled ''Port Access Route Study: Approaches to the Chesapeake Bay, Virginia'' in the **Federal Register** (84 FR 65398). The public was afforded a 60-day comment period, and the option to request public meetings. The Coast Guard conducted outreach with port partners during this time. The comment period was closed on January 27, 2020.

The study area extends approximately 220 nautical miles seaward of the Chesapeake Bay, between Ocean City, MD, and Cape Hatteras, NC. An illustration showing the study area is available in the docket where indicated under **ADDRESSES**. Additionally, the study area is available for viewing on the Mid-Atlantic Ocean Data Portal at *http://portal.midatlanticocean.org/visualize/.* See the ''Maritime'' portion of the Data Layers section.

### III. Discussion

PARS are the means by which program managers determine the need to establish traffic routing measures or shipping safety fairways to reduce the risk of collision, allision and grounding, and their impact on the environment, increase the efficiency and predictability of vessel traffic, and preserve the paramount right of navigation while continuing to allow for other reasonable waterway uses. The study analyzes current routing measures around the approaches to Chesapeake Bay and proposes an adequate way to manage the forecasted maritime traffic growth, as well as the co-dependent use of the waters in support of future development.

The Coast Guard received 11 comments in response to our **Federal Register** notice and other outreach efforts. All comments and supporting documents are available in a public docket and can be viewed at *http://www.regulations.gov.* In the ''Search'' box insert ''USCG–2019–0862'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. These comments were submitted by

commercial maritime operators and state and port partners. Topics covered by these comments included support and requests for additional routing measures around WEAs, requests for collaboration with state organizations, and requests for NEPA compliance and Environmental Impact Studies to be completed. A synopsis of the comments and copies of the Coast Guard's Public outreach can be found in the report.

As a result of the data analysis within this study and considering the comments received the Coast Guard proposes five measures for consideration by the public. Any comments received will be reviewed and considered before a final version of the Approaches to Chesapeake Bay PARS is announced in the **Federal Register**. This notice is published under the authority of 46 U.S.C. 70004 and 5 U.S.C. 552(a).

## IV. Information Requested

We encourage you to submit comments through the Federal portal at *https://www.regulations.gov.* In your submission, please include the docket number for this notice of inquiry and provide a reason for each suggestion or recommendation. If your material cannot be submitted using *https://www.regulations.gov,* contact 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 notice of inquiry 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 may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you visit the online docket and sign up for email alerts, you will be notified when comments are posted or if a final rule is published.

Dated: May 25, 2021.

**Laura M. Dickey,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 2021–12671 Filed 6–15–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. CISA–2021–0011]**

## Notice of the President's National Infrastructure Advisory Council Meeting

**AGENCY:** Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

**ACTION:** Notice of Federal Advisory Committee Act (FACA) meeting; request for comments.

**SUMMARY:** CISA announces a public meeting of the President's National Infrastructure Advisory Council (NIAC). To facilitate public participation, CISA invites public comments on the agenda items and any associated briefing materials to be considered by the council at the meeting.

**DATES:**

*Meeting Registration:* Individual registration to attend the meeting by phone is required and must be received no later than 5:00 p.m. EDT on Tuesday, July 20, 2021. For more information on how to participate, please contact *NIAC@cisa.dhs.gov.*

*Speaker Registration:* Individuals may register to speak during the meeting's public comment period. The registration must be received no later than 5:00 p.m. EDT on Tuesday, July 20, 2021.

*Written Comments:* Written comments must be received no later than 5:00 p.m. EDT on Monday, July 12, 2021.

*Meeting Date:* The meeting will be held on Friday, July 23, 2021 from 2:00 p.m.–3:00 p.m. EDT. The meeting may close early if the council has completed its business.

**ADDRESSES:** The meeting will be held remotely via conference call. For access to the conference call bridge, information on services for individuals with disabilities, or to request special assistance to participate, please email *NIAC@cisa.dhs.gov* by 5:00 p.m. EDT on Tuesday, July 20, 2021.

*Comments:* Written comments may be submitted on the issues to be considered by the NIAC as described in the **SUPPLEMENTARY INFORMATION** section below and any briefing materials for the meeting. Any briefing materials that will be presented at the meeting will be made publicly available *before the meeting* at the following website: *https://www.cisa.gov/niac.*

Comments identified by docket number CISA–2021–0011 may be submitted by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: NIAC@cisa.dhs.gov.* Include docket number CISA–2021–0011 in the subject line of the message.
- *Mail:* Rachel Liang, Designated Federal Officer, President's National Infrastructure Advisory Council, Cybersecurity and Infrastructure Security Agency Stop 0380, Department of Homeland Security, 245 Murray Lane, Washington, DC 20528–0380.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on participating in the upcoming NIAC meeting, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket and comments received by the NIAC, go to *www.regulations.gov* and enter docket number CISA–2021–0011.

A public comment period is scheduled to be held during the meeting from 2:45 p.m.–2:55 p.m. EDT. Speakers who wish to participate in the public comment period must register by emailing *NIAC@cisa.dhs.gov.* Speakers are requested to limit their comments to three minutes and will speak in order of registration. Please note that the public comment period may end before the time indicated, following the last request for comments.

**FOR FURTHER INFORMATION CONTACT:** Rachel Liang, *Rachel.Liang@cisa.dhs.gov*; 202–936–8300.

**SUPPLEMENTARY INFORMATION:** The NIAC is established under Section 10 of E.O. 13231 issued on October 16, 2001. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix (Pub. L. 92–463). The NIAC shall provide the President, through the Secretary of Homeland Security, with advice on the security and resilience of the Nation's critical infrastructure sectors.

*Agenda:* The NIAC will meet in an open meeting on Friday, July 23, 2021, to discuss the following agenda items:

I. Opening of Meeting
II. Roll Call of Members
III. Opening Remarks
IV. Workforce and Talent Management Study Presentation
V. Workforce and Talent Management Study Deliberation and Vote
VI. Public Comment
VII. Closing Remarks
VIII. Adjournment

**Public Participation**

**Meeting Registration Information**

Requests to attend via conference call will be accepted and processed in the order in which they are received. Individuals may register to attend the NIAC meeting by phone by sending an email to *NIAC@cisa.dhs.gov.*

**Public Comment**

While this meeting is open to the public, participation in FACA deliberations are limited to council members. A public comment period will be held during the meeting from approximately 2:45 p.m.–2:55 p.m. EDT. Speakers who wish to comment must register in advance and can do so by emailing *NIAC@cisa.dhs.gov* no later than 5:00 p.m. EDT on Tuesday, July 20, 2021. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments.

**Information on Services for Individuals With Disabilities**

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact *NIAC@cisa.dhs.gov* by 5:00 p.m. EDT on Tuesday, July 20, 2021.

**Rachel Liang,**

*Designated Federal Officer, President's National Infrastructure Advisory Council, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.*

[FR Doc. 2021–12702 Filed 6–15–21; 8:45 am]

**BILLING CODE 9110–9P–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7034–N–29]**

## 30-Day Notice of Proposed Information Collection: Section 3 Reporting; OMB Control No. 2501–New

**AGENCY:** Office of the Chief Information Officer, 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 30 days of public comment.

**DATES:** *Comments Due Date:* July 16, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person 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. Guido.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 11, 2021 at 86 FR 13911.

**A. Overview of Information Collection**

*Title of Information Collection:* Section 3 Reporting.

*OMB Approval Number:* 2528–New.

*Type of Request:* New collection.

*Form Number:* HUD Form 60002–A, HUD Form XXXX Opportunity Portal, HUD Form XXXX Business Registry.

*Description of the need for the information and proposed use:* This collection is to reflect changes to the Section 3 regulation, published in the **Federal Register** 9/29/2020 (*https://www.federalregister.gov/documents/2020/09/29/2020-19185/enhancing-and-streamlining-the-implementation-of-section-3-requirements-for-creating-economic*). The rule is effective November 30, 2020 and replaces the current regulations found at 24 CFR part 135.

*Form 60002A:* This form is used to collect information from PIH recipients annually on the benchmarks (*https://www.federalregister.gov/documents/2020/09/29/2020-19183/section-3-benchmarks-for-creating-economic-opportunities-for-low--and-very-low-income-persons-and#:~:text=HUD%20defines%20a%20Section%203,very%20low%2Dincome%20persons%3B%20or*) required to achieve compliance with Section 3.

*Opportunity Portal:* The Opportunity Portal is designed to help HUD grantees and Section 3 businesses meet their Section 3 obligations for employment of low- and very-low income persons and provide other economic opportunities. The site is to be used by either Low- and Very-Low Income persons or Employers. Section 3 workers may use the site to Search for Jobs and post their profile/employment history for companies to search. Employers may use the site for posting job/contract opportunities or search for residents to fill positions.

*Business Registry:* The Business Registry is a listing of firms that have self-certified that they meet the regulatory definition of a Section 3 business and are included in a searchable online database that can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of certain HUD-funded contracts.

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Burden hours | Hourly per response | Annual cost |
|---|---|---|---|---|---|---|---|
| Opportunity Portal | 350.00 | 1.00 | 350.00 | 1.00 | 350.00 | $7.25 | $2,537.50 |
| Business Registry* | 6,000.00 | 1.00 | 6000.00 | 1.00 | 6,000.00 | 45.80 | 274,800.00 |
| HUD Form 60002–A** | 4,283.00 | 1.00 | 4283.00 | 3.00 | 12,849.00 | 18.12 | 232,823.88 |
| Total | 10,633.00 | | | | 19,199.00 | | 510,161.38 |

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Anna P. Guido,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–12587 Filed 6–15–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7034–N–31]**

## 30-Day Notice of Proposed Information Collection: Self-Help Homeownership Opportunity Program (SHOP), OMB Control No. 2506–0157

**AGENCY:** Office of the Chief Information Officer, 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 30 days of public comment.

**DATES:** *Comments Due Date:* July 16, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person 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. Guido.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on Thursday, March 24, 2021 at 86 FR 15956.

**A. Overview of Information Collection**

*Title of Information Collection:* Self-Help Homeownership Opportunity Program (SHOP).

*OMB Approval Number:* 2506–0157.

*Type of Request:* Extension of currently approved collection.

*Form Number:* HUD–424CB, HUD–2880, HUD–2993, HUD–2995, HUD–96011.

*Description of the need for the information and proposed use:*

This is a proposed information collection for submission requirements under the SHOP Notice of Funding Availability (NOFA). HUD requires information in order to ensure the eligibility of SHOP applicants and the compliance of SHOP proposals, to rate and rank SHOP applications, and to select applicants for grant awards. Information is collected on an annual basis from each applicant that responds to the SHOP NOFA. The SHOP NOFA requires applicants to submit specific forms and narrative responses.

| Information collection | Number of respondents | Frequency of response | Responses per annual | Burden hour per response | Annual burden hours | Hourly cost per response | Annual cost |
|---|---|---|---|---|---|---|---|
| SF–424 | 10.00 | 0.00 | 0.00 | 0.00 | 00.00 | $0.00 | $0.00 |
| HUD–424CB | 10.00 | 1.00 | 10.00 | 10.00 | 100.00 | 70.45 | 7.045.00 |
| HUD–424 CBW | 10.00 | 1.00 | 10.00 | 30.00 | 300.00 | 70.45 | 21,135.00 |
| SF–LLL | 10.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| HUD–2880 | 10.00 | 1.00 | 10.00 | .50 | 5.00 | 70.45 | 352.25 |
| HUD–2993 | 10.00 | 1.00 | 10.00 | .50 | 5.00 | 70.45 | 352.25 |
| HUD–2995 | 10.00 | 1.00 | 10.00 | .50 | 5.00 | 70.45 | 352.25 |
| HUD–96011 | 10.00 | 1.00 | 10.00 | .50 | 5.00 | 70.45 | 353.25 |
| Applicant Eligibility | 10.00 | 1.00 | 10.00 | 10.00 | 100.00 | 70.45 | 7,045.00 |
| SHOP Program Design and Scope of Work | 10.00 | 1.00 | 10.00 | 30.00 | 300.00 | 70.45 | 21,135.00 |
| Rating Factor 1 | 10.00 | 1.00 | 10.00 | 25.00 | 250.00 | 70.45 | 17,612.50 |
| Rating Factor 2 | 10.00 | 1.00 | 10.00 | 25.00 | 250.00 | 70.45 | 17,612.50 |
| Rating Factor 3 | 10.00 | 1.00 | 10.00 | 55.00 | 550.00 | 70.45 | 38.747.50 |
| Rating Factor 4 | 10.00 | 1.00 | 10.00 | 30.00 | 300.00 | 70.45 | 21,135.00 |
| Rating Factor 5 | 10.00 | 1.00 | 10.00 | 25.00 | 250.00 | 70.45 | 17,612.50 |
| Total Annual Hour Burden | 10.00 | 1.00 | 10.00 | 242.00 | 2,420.00 | ..... | 170,489.00 |

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Anna P. Guido,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–12596 Filed 6–15–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–MB–2021–N033; FXMB12310900000/FF09M140000/212F1611MD]**

## Availability of Birds of Conservation Concern 2021

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

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of *Birds of Conservation Concern 2021*. This publication identifies species, subspecies, and populations of migratory birds in need of additional conservation actions. The purpose and goal of this publication is to stimulate and guide coordinated, collaborative, and proactive conservation actions for these taxa among Federal, State, Tribal, and private partners.

**ADDRESSES:** The subject document is available at *https://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php*.

**FOR FURTHER INFORMATION CONTACT:** Jerome Ford, Assistant Director, Migratory Birds, U.S. Fish and Wildlife Service, Department of the Interior, 1849 C Street NW, Washington, DC 20240; 202–208–1050; *jerome_ford@fws.gov*. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of *Birds of Conservation Concern 2021*. This publication identifies species, subspecies, and populations of migratory birds in need of additional conservation actions. Our goal in publishing this list is to stimulate coordinated, collaborative, and proactive conservation actions among Federal, International, State, Tribal, and private partners.

The 1988 amendment to the Fish and Wildlife Conservation Act of 1980 (FWCA; 16 U.S.C. 2901–2912) requires the Secretary of the Interior, through the Service, to ''identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543) [ESA].'' 16 U.S.C. 2912; Public Law 100–653, 802. *Birds of Conservation Concern 2021* fulfills that mandate and supersedes *Birds of Conservation Concern 2008* (74 FR 11128). The overall purpose of the Birds of Conservation Concern list is to identify, by geography, those nongame migratory birds in greatest need of conservation attention. Thus, the species that appear in *Birds of Conservation Concern 2021* are deemed to be the highest priority for conservation actions. We anticipate that the document will be consulted by Federal agencies and their partners prior to undertaking cooperative research, monitoring, and management actions that might directly or indirectly affect migratory birds.

The philosophy underlying the BCC reports is that proactive bird conservation is critical at a time when continued human impacts will be intensified by effects of a changing climate. By investing in actions for designated BCC taxa, we can prevent further degradation to environments that we all share, improve the odds for successful long-term conservation, and avoid the complexities associated with federal ESA listing. Proactive conservation is recognized as being more cost-effective than the recovery efforts required once a bird is listed under the ESA (*e.g.,* Drechsler et al. 2011).

To serve as a broad early-warning system in the context of the FWCA, this list includes all of the species that we consider to be of conservation concern. Our objective in publishing the list is to focus conservation attention on bird species of concern well in advance of a possible or plausible need to consider them for listing under the ESA. Inclusion on this list does not constitute a finding that listing under the ESA is warranted, or that substantial information exists to indicate that listing under the ESA may be warranted. Many of the species on this list may never have to be considered for ESA listing, even if no additional conservation actions are taken.

**Authority**

The authority for this notice is the FWCA; the ESA; the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a *et seq.*); and 16 U.S.C. 701.

**Jerome Ford,**

*Assistant Director, Migratory Birds.*

[FR Doc. 2021–12694 Filed 6–15–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R3–FAC–2021–N164; FF03F22900/FRFR481203YA200/XXX; OMB Control Number 1018–New]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Online Program Management System for Carbon Dioxide—Carp

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

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before July 16, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting

''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference ''1018–Invasive Carp'' in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the information collection request (ICR) at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 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.

On January 11, 2021, we published in the **Federal Register** (86 FR 1995) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on March 12, 2021. We did not receive any comments in response to that notice.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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 Lacey Act (Act, 18 U.S.C. 42) prohibits the importation of any animal deemed to be and prescribed by regulation to be injurious to:

- Human beings;
- The interests of agriculture, horticulture, and forestry; or
- Wildlife or the wildlife resources of the United States.

Implementation and enforcement of the Lacey Act is the responsibility of the Department of the Interior. The Service, in concert with our diverse partners, works to conserve, restore, and maintain the nation's fishery resources and aquatic ecosystems for the benefit of the American people, to include managing and controlling four species of invasive carp—bighead, black, grass, and silver—native to Asia. Under the authority of the Act, the Service listed bighead, black, and silver carp species as injurious wildlife to protect humans, native wildlife, and wildlife resources from the purposeful or accidental introduction of invasive carp into the nation's aquatic ecosystems.

The Service takes part in a broad, partner-driven approach to strategically control the movement of Invasive carp. The spread of these invasive species in the nation's river systems threatens the conservation efforts conducted by our agency, our State partners, and other stakeholders, to promote self-sustaining aquatic resources and healthy aquatic ecosystems. In addition to widespread and longstanding ecological consequences, aquatic invasive species often result in significant economic losses and cost our nation's economy billions of dollars per year.

To effectively carry out our responsibilities under the Act and protect the aquatic resources of the United States, the Service, in collaboration with the U.S. Geological Survey, proposes to administer applications of Carbon Dioxide-Carp by registered management partners (applicators) and to collect information regarding the usage of Carbon Dioxide-Carp, an Environmental Protection Agency (EPA) registered product #6704–95 to control Invasive carp. Carbon Dioxide-Carp is approved for use only by the U.S. Fish and Wildlife Service, U.S. Geological Survey, U.S. Army Corps of Engineers, State natural resource managers, or persons under their direct supervision.

The Service will use the information collected to document the label requests, maintain inventory, and document application results of Carbon Dioxide-Carp as an EPA registered product. The Service proposes to collect information from applicators using the following four forms:

- *Form 3–2130:* Report on Receipt of Label—Applicators must apply for a label to attach to a treatment container of Carbon Dioxide-Carp prior to being able to legally apply it as an Invasive carp deterrent or as an under-ice lethal control for aquatic nuisance species. This form collects the following information:
  - Applicant's information, to include address, date of birth, contact number(s), email address, and relevant business information (if application is on behalf of a business, corporation, public agency, Tribe, or institution);
  - Date of label receipt;
  - Site of application, to include GPS location, approximate number of surface acres, and date of application;
  - Label number; and
  - Name and address of applicator.
- *Form 3–2163:* Inventory Form for Use with Carbon Dioxide-Carp—Registered applicators must maintain an accurate inventory of Carbon Dioxide-Carp for the duration of possession of the product label. This form collects the following information:
  - Applicant's information, to include address, date of birth, contact number(s), email address, and relevant business information (if application is on behalf of a business, corporation, public agency, Tribe, or institution);
  - Date of application;
  - Amount of Carbon Dioxide-Carp applied (pounds);
  - Label number;
  - Label return date;
  - Any adverse incident; and
  - Name of applicator and affiliation.
- *Form 3–2164:* Worksheet for Field Application Locations—Applicators must complete Form 3–2164 for each application of Carbon Dioxide-Carp before the actual application. This form collects the following information:

○ Applicant's information, to include address, date of birth, contact number(s), email address, and relevant business information (if application is on behalf of a business, corporation, public agency, Tribe, or institution);

○ Site information, to include the name and address of the location; applicator name, address, telephone number, and email address; and the applicator's certification number; and

○ Carbon Dioxide-Carp use information, to include estimated pounds of Carbon Dioxide-Carp needed, estimated dates of use, purpose, and a list of obtained permits.

• *Form 3–2191:* Results Report Form—Investigator must submit application results to the Service to document efficacy of the treatment and any possible adverse effects, as this data is required by the EPA to maintain product registration. This form collects the following information:

○ Applicant's information, to include address, date of birth, contact number(s), email address, and relevant business information (if application is on behalf of a business, corporation, public agency, Tribe, or institution);

○ Site information (to include GPS coordinates and city/county/state) and reporting individual; and

○ Application information, to include total amount of Carbon Dioxide-Carp used (pounds), application date(s), adverse incident information (to include date reported to the U.S. Geological Survey), applicator name and label number, National Pollutant Discharge Elimination System Permit number, and other required permits and permit numbers.

• *Form 3–2541:* 6(a)(2) Adverse Incident Report—Investigator must submit application adverse results to the Service to document any irregularities in the application circumstances or adverse effects on non-target organisms. This form collects the following information:

○ Administrative data, to include reporting and contact individual (if different), address and phone number, incident status, location and date of incident, when registrant became aware of incident, and whether incident was part of a larger study;

○ Pesticide data, to include whether exposure was to concentrate prior to dilution;

○ Incident circumstances, to include whether there is evidence that label directions were not followed, whether applicator is a certified pest control operator, type of exposure, incident site, situation, and brief description of habitat and incident circumstances; and

○ Information involving fish, wildlife, plants, or other non-target organisms; species; symptoms or adverse effects; magnitude of the effects; and any explanatory or qualifying information surrounding the incident.

**ePermits Initiative**

We are exploring the feasibility of using the Service's new ''ePermits'' initiative, an automated permit application system that will allow the agency to move towards a streamlined permitting process to reduce public burden. The ePermits platform would automate the five forms associated with this proposed information collection. Public burden reduction is a priority for the Service, the Assistant Secretary for Fish and Wildlife and Parks, and senior leadership at the Department of the Interior. The intent of the ePermits initiative is to fully automate the permitting and reporting process to improve the customer experience and to reduce time burden on respondents. This new system will enhance the user experience by allowing users to enter data from any device that has internet access, including personal computers, tablets, and smartphones. It will also link the permit applicant to the *Pay.gov* system for payment of any associated fees.

*Title of Collection:* Online Program Management System for Carbon Dioxide-Carp.

*OMB Control Number:* 1018–New.

*Form Number:* FWS Forms 3–2130, 3–2163, 3–2164, 3–2191, and 3–2541.

*Type of Review:* New.

*Respondents/Affected Public:* State and Tribal governments.

*Total Estimated Annual Nonhour Burden Cost:* $45,000.00. We estimate that each of the anticipated 10 annual respondents would pay an EPA Maintenance fee of $400, a State registration fee of $252; and an administrative fee of $848 (totaling $15,000 ($1,500 × 10 respondents)). Each respondent will also incur a one-time startup cost of $3,000 (totaling $30,000 ($3,000 × 10 respondents)).

| Requirement | Average number of annual respondents | Average number of responses each | Average number of annual responses | Average completion time per response (min) | Estimated annual burden hours * |
|---|---|---|---|---|---|
| **ePermits Form 3–2130: Report on Receipt of Label** | | | | | |
| Government | 9 | 1 | 9 | 12 | 1 |
| **Form 3–2130: Report on Receipt of Label** | | | | | |
| Government | 1 | 1 | 1 | 15 | 0 |
| **ePermits Form 3–2163: Inventory Form for Use with Carbon Dioxide-Carp** | | | | | |
| Government | 9 | 1 | 9 | 12 | 1 |
| **Form 3–2163: Inventory Form for Use with Carbon Dioxide-Carp** | | | | | |
| Government | 1 | 1 | 1 | 15 | 0 |
| **ePermits 3–2164: Worksheet for Field Application Locations** | | | | | |
| Government | 9 | 1 | 9 | 12 | 1 |
| **Form 3–2164: Worksheet for Field Application Locations** | | | | | |
| Government | 1 | 1 | 1 | 15 | 0 |

| Requirement | Average number of annual respondents | Average number of responses each | Average number of annual responses | Average completion time per response (min) | Estimated annual burden hours * |
|---|---|---|---|---|---|
| **ePermits Form 3–2191: Results Report Form** | | | | | |
| Government | 9 | 1 | 9 | 12 | 1 |
| **Form 3–2191: Results Report Form** | | | | | |
| Government | 1 | 1 | 1 | 15 | 0 |
| **ePermits Form 3–2541: 6(a)(2) Adverse Incident Report** | | | | | |
| Government | 1 | 1 | 1 | 50 | 1 |
| **Form 3–2541: 6(a)(2) Adverse Incident Report** | | | | | |
| Government | 1 | 1 | 1 | 60 | 1 |
| Totals | *42* | | *42* | | *10* |

* Rounded.

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.*).

Dated: June 11, 2021.

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2021–12660 Filed 6–15–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[212.LLAK941200.L1440000.ET0000; A–023002]**

### Notice of Application for Extension of Public Land Order No. 6244 and Opportunity for Public Meeting; Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Air Force 673rd Civil Engineer Squadron Real Property Officer filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior extend the duration of the withdrawal created by Public Land Order (PLO) No. 6244 for an additional 20-year term. The withdrawal created by PLO No. 6244, as extended by PLO No. 7514, expires on May 12, 2022. PLO No. 6244, as extended, withdrew public land from surface land and mining laws for military purposes at Fort Richardson, Alaska. This requested extension notes the change of PLO No. 6244 by the 2005 Base Closure and Realignment Report, creating Joint Base Elmendorf-Richardson with the Department of the Air Force as the supporting agency. This Notice invites the public to comment on the Air Force application or request a public meeting for the requested 20-year withdrawal extension.

**DATES:** Comments and requests for a public meeting must be received by September 14, 2021.

**ADDRESSES:** Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office, 222 West Seventh Avenue, No. 13, Anchorage, Alaska 99513–7504 or by email at *blm_ak_state_director@blm.gov.*

**FOR FURTHER INFORMATION CONTACT:** Chelsea Kreiner, BLM Alaska State Office, 907–271–4205, email *ckreiner@blm.gov*.

Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual. The FRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** On August 8, 2019, the 673rd Civil Engineer Squadron Real Property Officer requested that PLO No. 6244 (47 FR 20590 (1982)), as extended by PLO No. 7514 (67 FR 10433, (2002)), be extended for an additional 20-year term.

PLO No. 6244 is incorporated by reference. A complete description, along with all other records pertaining to the extension, can be examined in the BLM Alaska State Office at the address shown above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal extension application must submit a written request to the BLM Alaska State Director. Upon determination by the authorized officer that a public meeting will be held, the BLM will publish a notice of the time and place in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The withdrawal extension application will be processed in accordance with the regulations set forth in 43 CFR 2310.4 and subject to Section 810 of the Alaska National Interest Lands Conservation Act, (16 U.S.C. 3120).

For a period until September 14, 2021, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM Alaska State Director at the address indicated above. 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.

**Ted A. Murphy,**

*Alaska State Director, Acting.*

[FR Doc. 2021–12613 Filed 6–15–21; 8:45 am]

**BILLING CODE 4310–JA–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 332–586]**

### Foreign Censorship Part 2: Trade and Economic Effects on U.S. Businesses; Proposed Information Collection; Comment Request; Foreign Censorship Questionnaire

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of information collection.

**SUMMARY:** In accordance with the provisions of the Paperwork Reduction Act of 1995, the U.S. International Trade Commission (Commission or USITC) hereby gives notice that it plans to submit a request for approval of a questionnaire to the Office of Management and Budget (OMB) for review and requests public comment on its draft proposed collection.

**DATES:** To assure that the Commission will consider your comments, it must receive them no later than 60 days after publication of this notice in the **Federal Register**.

**ADDRESSES:** The project leaders for this investigation are Ricky Ubee, Shova KC, and George Serletis. Please direct all written comments to the project leaders via email at *foreign.censorship@usitc.gov* or by phone at 202–205–3493.

**FOR FURTHER INFORMATION CONTACT:** Ricky Ubee at 202–205–3493. Copies of the questionnaire and supporting investigation documents may be obtained at *https://www.usitc.gov/foreigncensorship.* Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*http://www.usitc.gov*).

**SUPPLEMENTARY INFORMATION:**

*Purpose of Information Collection:* The information requested by the questionnaire is for use by the Commission in connection with Investigation No. 332–586, *Foreign Censorship Part 2: Trade and Economic Effects on U.S. Businesses,* instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation and report were requested by the Committee on Finance (Committee) of the U.S. Senate on April 7, 2021 (revised from a request received January 4, 2021). This investigation was initiated on May 6, 2021 and notice was published on May 12, 2021 (86 FR 26064). The Committee's request includes a component that requires the use of survey data to provide an analysis of the trade and economic effects of foreign censorship policies and practices on affected businesses in the United States and their global operations. This questionnaire is therefore necessary to analyze foreign censorships impacts on (1) employment, (2) direct costs to businesses (*e.g.,* compliance and entry costs), (3) foregone revenue and sales, (4) self-censorship, and (5) other effects the Commission considers relevant to respond to the Committee's request. The Commission will deliver its report to the Committee by July 5, 2022.

*Summary of Proposal:*

The Commission intends to submit the following draft information collection plan to OMB and invites public comment.

(1) *Number of forms submitted:* 1.

(2) *Title of form:* Foreign Censorship Questionnaire

(3) *Type of request:* New.

(4) *Frequency of use:* Industry questionnaire, single data gathering, scheduled for 2021.

(5) *Description of respondents:* U.S. businesses operating in China.

(6) *Estimated number of respondents:* 10,000.

(7) *Estimated total number of hours to complete the questionnaire per respondent:* 15 hours.

(8) Information obtained from the questionnaire that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a business.

#### I. Abstract

The Committee on Finance (Committee) of the U.S. Senate has requested the Commission to produce a report that analyzes the trade and economic effects of foreign censorship policies and practices on (1) employment, (2) direct costs to businesses (*e.g.,* compliance and entry costs), (3) foregone revenue and sales, (4) self-censorship, and (5) other effects the Commission considers relevant for the Committee to know. This report is the second in a two-part series on the effects of foreign censorship.

#### II. Method of Collection

Respondents will be mailed a letter with a link and individual code for accessing the online form. Once the online form is complete, respondents will be directed to submit the form by selecting a submit button.

#### III. Request for Comments

Comments are invited on (1) whether the proposed collection of information is necessary; (2) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

The draft questionnaire and other supplementary documents may be downloaded from the USITC website at *https://www.usitc.gov/foreigncensorship.*

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

By order of the Commission.

Issued: June 10, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–12579 Filed 6–15–21; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–125 (Fifth Review)]**

### Potassium Permanganate From China; Scheduling of a Full Five-Year Review

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of a full review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the anti-dumping duty order on potassium permanganate from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

**DATES:** June 10, 2021.

**FOR FURTHER INFORMATION CONTACT:** Andres Andrade (202–205–2078), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://*

*www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On May 7, 2021, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review should proceed (86 FR 27477, May 20, 2021); accordingly, a full review is being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

*Participation in the review and public service list.*—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.*—The prehearing staff report in the review will be placed in the nonpublic record on September 20, 2021, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

*Hearing.*—The Commission will hold a hearing in connection with this review beginning at 9:30 a.m. on October 5, 2021. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* Interested parties should check the Commission's website periodically for updates.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 29, 2021. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 4, 2021 (if deemed necessary). Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is September 28, 2021. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is October 13, 2021. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before October 13, 2021. On November 1, 2021, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 3, 2021, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 10, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–12599 Filed 6–15–21; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

**[OMB Number 1140–NEW]**

### Agency Information Collection Activities; Proposed eCollection of eComments Requested; New Information Collection; Request for Interim Security Clearance—ATF Form 8620.70

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection (IC) is also being published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, regarding the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, contact Lakisha Gregory, Chief, Personnel Security Division by mail at 99 New York Avenue NE, Mailstop 1.E–300, Washington, DC 20226, email at *Lakisha.Gregory@atf.gov,* or telephone at 202–648–9260.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

1. *Type of Information Collection (check justification or form 83–I):* New collection.

2. *The Title of the Form/Collection:* Request for Interim Security Clearance.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number (if applicable):* ATF Form 8620.70.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Individuals or households.

*Other (if applicable):* None.

*Abstract:* The Request for Interim Security Clearance—ATF Form 8620.70 will be used to determine if a candidate for Federal or contractor employment at the Bureau of Alcohol, Tobacco, Firearms and Explosives can be granted an interim security clearance prior to the completion and adjudication of their full background investigation.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,000 respondents will use the form annually, and it will take each respondent approximately 5 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 167 hours, which is equal to 2,000 (# of respondents) * .0833333 (5 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Mail Stop 3E.405A, Washington, DC 20530.

Dated: June 11, 2021.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2021–12690 Filed 6–15–21; 8:45 am]

**BILLING CODE 4410–FY–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On June 9, 2021, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled *United States of America* v. *City of Quincy, Massachusetts,* Civil Action No. 1:19–cv–10483–RGS.

The United States filed a Complaint against the City of Quincy, Massachusetts (''City'') on March 14, 2019, alleging violations of the Clean Water Act. The Complaint alleged that sewage in the City's sanitary sewer system had leaked from the sanitary system and entered the separate storm sewer system, ultimately discharging with storm water into Quincy Bay and other receiving waters. The Complaint also alleged that the City's sanitary sewer system had overflowed on numerous occasions, resulting in discharges of sewage. The Consent Decree calls for the City to implement a comprehensive and integrated program to investigate, repair, and rehabilitate its stormwater and sanitary sewer systems, with all investigations and remedial work completed by December 31, 2034. The City will also pay a $115,000 penalty.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *City of Quincy,* D.J. Ref. No. 90–5–1–1–11446. All comments must be submitted no later than thirty (30) days after the publication date of this notice.

Comments may be submitted either by email or by mail:

| *To submit comments:* | *Send them to:* |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment

to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. Please enclose a check or money order for $17.25 for a copy of the Consent Decree without the appendices or for $58.25 for a copy of the Consent Decree with appendices (25 cents per page reproduction cost) payable to the United States Treasury.

**Henry Friedman,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2021–12577 Filed 6–15–21; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Employment and Training Administration (ETA) Program Year (PY) 2021; Workforce Innovation and Opportunity Act (WIOA) Section 167, National Farmworker Jobs Program (NFJP) Grantee Allotments

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This Notice announces Program Year (PY) 2021 allotments to States for the National Farmworker Jobs Program (NFJP), which is authorized under the Workforce Innovation and Opportunity Act (WIOA), Section 167. These allotments are based on the funds appropriated in the Consolidated Appropriations Act, 2021 (from this point forward will be referred to as the ''the Act'').

**DATES:** The PY 2021 NFJP allotments become effective for the grant period that begins July 1, 2021.

**ADDRESSES:** Questions on this notice can be submitted to the Employment and Training Administration, Office of Workforce Investment, Attention at: *NFJP@dol.gov.*

**FOR FURTHER INFORMATION CONTACT:** Laura Ibañez, Unit Chief, at (202) 693–3645. 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:** This notice is published according to Section 182(d) of the WIOA, Prompt Allotment of Funds. ETA developed the formula to distribute funds geographically by state service area, based on each state service area's relative share of persons eligible for the program. The formula's original methodology is described in the **Federal Register** notice 64 FR 27390, May 19, 1999. That information is accessible at *https://www.federalregister.gov/.* In PY 2018, ETA incorporated two modifications to the allotment formula to provide more accurate estimates of each state service area's relative share of persons eligible for the program. The formula also used updated data from each of the four data files serving as the basis of the formula since 1999. The revised formula methodology is described in the **Federal Register** notice 83 FR 32151, July 11, 2018.

Two modifications were incorporated into the formula for PY 2021. These modifications improve the formula's accuracy in terms of estimating the true NFJP-eligible population in state service areas, and one of the modifications is necessitated by a recent statutory change to the NFJP eligibility criteria, which Congress enacted in the FY 2021 appropriation. Section II includes further explanation of these modifications.

This notice represents the final of a two-stage process. ETA published a notice requesting public comments on May 10, 2021, regarding the formula methodology and modifications. Additionally, ETA hosted a webinar on May 5, 2021, to share the preliminary allotments, explained the data sources, and encourage response to the notice published shortly thereafter. ETA did not receive any comments through the public comment process. In this final stage, ETA is publishing the final formula and final allotment levels.

## I. Background

The Department is announcing the final PY 2021 allotments for the National Farmworker Jobs Program (NFJP). This notice provides information on the amount of funds available during PY 2021 to state service areas awarded grants through Funding Opportunity Announcements FOA–ETA–20–08 and FOA–ETA–20–08–A for the NFJP Career Services and Training grants and Housing grants. Funds to implement NFJP are appropriated in the Act. In appropriating these funds, Congress provided $87,083,000 for formula grants (of which $86,946,000 was allotted after $137,000 was set aside for program integrity), $6,256,000 for migrant and seasonal farmworker housing (of which not less than 70 percent shall be for permanent housing), and another $557,000 for discretionary purposes. Included below is the table listing the PY 2021 allotments for the NFJP Career Services and Training grants. Individual grants are awarded for Housing as a result of the grants competition and are further distributed according to language in the appropriations law requiring that of the total amount available, not less than 70 percent shall be allocated to permanent housing activities, leaving not more than 30 percent to temporary housing activities.

## II. Description of Data Files and Review of PY 2021 Modifications to the Allotment Formula

As with all state planning estimates since 1999, the PY 2021 estimates are based on four data sources: (1) State-level, 2017 hired farm labor expenditure data from the United States Department of Agriculture's (USDA) Census of Agriculture (COA); (2) regional-level, 2017 average hourly earnings data from the USDA's Farm Labor Survey; (3) regional-level, 2010–2018 demographic data from the ETA's National Agricultural Workers Survey (NAWS); and, (4) 2015–2019 (5-year file) data from the United States Census Bureau's American Community Survey (ACS). A detailed description of how each data source is used within the formula is in the **Federal Register** notice 64 FR 27390, May 19, 1999). In addition to populating the formula with updated data, ETA incorporated two modifications that will improve the formula's accuracy in terms of estimating the true NFJP-eligible population in state service areas. One of the modifications is necessitated by the change to the NFJP eligibility criteria applicable to the PY 2021 appropriation.

(1) First, the Act expands program eligibility for grants funded by the PY 2021 appropriation to include farmworkers who are in families with total family incomes at or below 150 percent of the poverty line. Therefore, the PY 2021 allocations used special tabulations of data from the ACS and the NAWS to estimate the share of farmworkers with total family incomes at or below 150 percent of the poverty line. ETA will subsequently revise the PY 2022 guidance regarding the definition of ''low-income individual,'' as needed if the same provision is not included in subsequent appropriations.

(2) Second, and to more closely align the formula with the definition of eligible migrant and seasonal farmworker under WIOA Section 167(i) and 20 CFR 685.110 and clarified in the Training and Employment Guidance Letter 18–16, ETA modified how the formula accounts for crop workers who are primarily employed in agriculture. This formula considers a crop worker to be primarily employed in agriculture if at least 50 percent of their total individual income is from farm work *or*

at least 50 percent of their total employment time is in farm work.[1] As with all state planning estimates since 1999, ETA used NAWS data to determine the share of crop labor hours in each state that was performed by crop workers who were primarily employed in agriculture, per this eligibility criterion.

## III. Description of the Hold-Harmless Provision

ETA has incorporated the hold-harmless provision as instituted in PY 2018. The updated data resulted in significant changes for a few states and the hold-harmless provision provides for a stop loss/stop gain limit to transition to the use of the updated data. This approach is based on a state service area's previous year's allotment percentage, which is its relative share of the total formula allotments. ETA will implement the staged transition of the hold-harmless provision as follows:

(1) In PY 2021, each state service area will receive an amount equal to at least 95 percent of their PY 2020 allotment percentage, as applied to the PY 2021 formula funds available;

(2) In PY 2022, each state service area will receive an amount equal to at least 90 percent of their PY 2021 allotment percentage, as applied to the PY 2022 formula funds available;

(3) In PY 2023, each state service area will receive an amount equal to at least 85 percent of their PY 2022 allotment percentage, as applied to the PY 2023 formula funds available.

In PY 2021, 2022, and 2023, the stop gain provision provides that no state service area will receive an amount that is more than 150 percent of their previous year's allotment percentage.

In PY 2024, since the Department has a responsibility to use the most current and reliable data available, amounts for the new awards will be based on updated data from the sources described in Section II, pending their availability. At that time, the Department will determine whether the changes to state allotments are significant enough to warrant another hold-harmless provision. Otherwise, allotments to each state service area will be for an amount resulting from a direct allotment of the funding formula without adjustment.

## IV. Minimum Funding Provisions

A state area that would receive less than $60,000 by application of the formula will, at the option of the DOL, receive no allotment or, if practical, be combined with another adjacent state area. Funding below $60,000 is deemed insufficient for sustaining an independently administered program. However, if practical, a state jurisdiction that would receive less than $60,000 may be combined with another adjacent state area.

## V. Program Year 2021 State Allotments

The state allotments set forth in the Table appended to this notice reflect the distribution resulting from the allotment formula described above. For PY 2020, $85,229,000 was appropriated for migrant and seasonal farmworker training grants and allotted based on the PY 2018 formula updates. The figures in the first numerical column show the actual PY 2020 formula allotments to state service areas. The next column shows the percentage share of each allotment to the total available.

For PY 2021, the funding level provided for in the Act for the migrant and seasonal farmworker program is $93,896,000 of which $87,083,000 was appropriated for training grants. After allowable funds are set aside for program integrity ($137,000), the Department will allot $86,946,000 for training grants based on the formula and data outlined in this notice. For purposes of illustrating the effects of the updates to the allotment formula, columns 3 and 4 show the state service area allotments with the application of the first-year (95 percent) hold-harmless and minimum funding provisions, followed by the percentages. The difference between PY 2021 and PY 2020 allotments is shown in column 5. Column 6 of the Table shows the allotments based on the formula without the application of the hold-harmless or minimum funding provisions. The percentages are reported in column 7.

U.S. Department of Labor, Employment and Training Administration, National Farmworker Jobs Program—Career Services and Training Grants

[Impact of final PY 2021 allotments to states]

| State | PY 2020 | | PY 2021 | | | | |
|---|---|---|---|---|---|---|---|
| | | | With hold harmless | | | Without hold harmless | |
| | Allotment | Percentage share | Allotment | Percentage share | Difference (PY 2021 vs. PY 2020) | Allotment | Percentage share |
| | (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| Total | $85,229,000 | 100.00000 | $86,946,000 | 100.00000 | $1,717,000 | $86,946,000 | 100.00000 |
| Alabama | 801,605 | 0.94053 | 776,866 | 0.89350 | (24,739) | 774,531 | 0.89082 |
| Alaska | ..... | 0.00000 | ..... | 0.00000 | ..... | ..... | 0.00000 |
| Arizona | 2,538,153 | 2.97804 | 2,459,822 | 2.82914 | (78,331) | 2,547,948 | 2.93049 |
| Arkansas | 1,144,067 | 1.34234 | 1,193,276 | 1.37243 | 49,209 | 1,262,754 | 1.45234 |
| California | 23,333,261 | 27.37714 | 22,613,160 | 26.00828 | (720,101) | 23,114,407 | 26.58478 |
| Colorado | 1,347,060 | 1.58052 | 1,662,689 | 1.91232 | 315,629 | 1,759,499 | 2.02367 |
| Connecticut | 402,388 | 0.47213 | 501,264 | 0.57652 | 98,876 | 530,450 | 0.61009 |
| Delaware | 155,864 | 0.18288 | 154,593 | 0.17780 | (1,271) | 163,594 | 0.18816 |
| Dist of Columbia | ..... | 0.00000 | ..... | 0.00000 | ..... | ..... | 0.00000 |
| Florida | 3,763,684 | 4.41597 | 3,647,531 | 4.19517 | (116,153) | 3,159,183 | 3.63350 |
| Georgia | 1,671,697 | 1.96142 | 1,656,566 | 1.90528 | (15,131) | 1,753,019 | 2.01622 |
| Hawaii | 322,061 | 0.37788 | 312,122 | 0.35898 | (9,939) | 157,635 | 0.18130 |
| Idaho | 1,777,707 | 2.08580 | 2,194,625 | 2.52412 | 416,918 | 2,322,406 | 2.67109 |

[1] To determine ''primarily employed in agriculture'' criteria, which has two parts, ETA uses individual income from farm work.

U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, NATIONAL FARMWORKER JOBS PROGRAM—CAREER SERVICES AND TRAINING GRANTS—Continued

[Impact of final PY 2021 allotments to states]

| State | PY 2020 | | PY 2021 | | | | |
|---|---|---|---|---|---|---|---|
| | | | With hold harmless | | | Without hold harmless | |
| | Allotment | Percentage share | Allotment | Percentage share | Difference (PY 2021 vs. PY 2020) | Allotment | Percentage share |
| | (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| Illinois | 1,746,897 | 2.04965 | 1,829,288 | 2.10394 | 82,391 | 1,935,797 | 2.22644 |
| Indiana | 1,145,731 | 1.34430 | 1,229,140 | 1.41368 | 83,409 | 1,300,706 | 1.49599 |
| Iowa | 1,588,068 | 1.86330 | 1,756,778 | 2.02054 | 168,710 | 1,859,065 | 2.13818 |
| Kansas | 1,220,211 | 1.43169 | 1,243,435 | 1.43012 | 23,224 | 1,315,834 | 1.51339 |
| Kentucky | 1,044,219 | 1.22519 | 1,011,993 | 1.16393 | (32,226) | 836,164 | 0.96170 |
| Louisiana | 798,040 | 0.93635 | 782,626 | 0.90013 | (15,414) | 828,194 | 0.95254 |
| Maine | 328,886 | 0.38589 | 408,044 | 0.46931 | 79,158 | 431,802 | 0.49663 |
| Maryland | 386,681 | 0.45370 | 521,061 | 0.59929 | 134,380 | 551,400 | 0.63419 |
| Massachusetts | 364,444 | 0.42761 | 512,780 | 0.58977 | 148,336 | 542,637 | 0.62411 |
| Michigan | 2,129,494 | 2.49856 | 2,073,573 | 2.38490 | (55,921) | 2,194,306 | 2.52376 |
| Minnesota | 1,629,902 | 1.91238 | 1,579,601 | 1.81676 | (50,301) | 1,664,564 | 1.91448 |
| Mississippi | 1,026,761 | 1.20471 | 995,074 | 1.14447 | (31,687) | 922,368 | 1.06085 |
| Missouri | 985,363 | 1.15614 | 1,219,415 | 1.40250 | 234,052 | 1,290,415 | 1.48416 |
| Montana | 628,528 | 0.73746 | 699,452 | 0.80447 | 70,924 | 740,177 | 0.85131 |
| Nebraska | 1,295,534 | 1.52006 | 1,255,552 | 1.44406 | (39,982) | 1,319,642 | 1.51777 |
| Nevada | 190,893 | 0.22398 | 223,924 | 0.25754 | 33,031 | 236,962 | 0.27254 |
| New Hampshire | 115,590 | 0.13562 | 145,953 | 0.16787 | 30,363 | 154,451 | 0.17764 |
| New Jersey | 602,990 | 0.70749 | 769,856 | 0.88544 | 166,866 | 814,680 | 0.93700 |
| New Mexico | 1,049,022 | 1.23083 | 1,067,856 | 1.22818 | 18,834 | 1,130,032 | 1.29969 |
| New York | 1,574,968 | 1.84793 | 2,169,172 | 2.49485 | 594,204 | 2,295,471 | 2.64011 |
| North Carolina | 2,638,326 | 3.09557 | 2,556,903 | 2.94079 | (81,423) | 2,107,580 | 2.42401 |
| North Dakota | 828,016 | 0.97152 | 802,462 | 0.92294 | (25,554) | 778,997 | 0.89595 |
| Ohio | 1,417,710 | 1.66341 | 1,437,210 | 1.65299 | 19,500 | 1,520,892 | 1.74924 |
| Oklahoma | 1,007,381 | 1.18197 | 976,292 | 1.12287 | (31,089) | 926,713 | 1.06585 |
| Oregon | 2,447,454 | 2.87162 | 2,371,922 | 2.72804 | (75,532) | 2,335,380 | 2.68601 |
| Pennsylvania | 1,485,920 | 1.74344 | 1,762,208 | 2.02678 | 276,288 | 1,864,813 | 2.14479 |
| Puerto Rico | 2,420,800 | 2.84035 | 2,346,090 | 2.69833 | (74,710) | 2,043,240 | 2.35001 |
| Rhode Island | 60,713 | 0.07124 | 64,858 | 0.07460 | 4,145 | 68,635 | 0.07894 |
| South Carolina | 811,276 | 0.95188 | 786,239 | 0.90428 | (25,037) | 695,074 | 0.79943 |
| South Dakota | 610,598 | 0.71642 | 665,710 | 0.76566 | 55,112 | 704,471 | 0.81024 |
| Tennessee | 894,737 | 1.04980 | 867,124 | 0.99731 | (27,613) | 631,232 | 0.72600 |
| Texas | 5,281,950 | 6.19736 | 5,118,941 | 5.88749 | (163,009) | 4,630,482 | 5.32570 |
| Utah | 466,894 | 0.54781 | 653,979 | 0.75217 | 187,085 | 692,057 | 0.79596 |
| Vermont | 185,768 | 0.21796 | 204,723 | 0.23546 | 18,955 | 216,643 | 0.24917 |
| Virginia | 1,002,595 | 1.17635 | 971,653 | 1.11754 | (30,942) | 784,640 | 0.90245 |
| Washington | 4,518,313 | 5.30138 | 4,510,391 | 5.18758 | (7,922) | 4,773,008 | 5.48962 |
| West Virginia | 155,408 | 0.18234 | 150,612 | 0.17322 | (4,796) | 112,164 | 0.12900 |
| Wisconsin | 1,639,775 | 1.92396 | 1,719,060 | 1.97716 | 79,285 | 1,819,152 | 2.09228 |
| Wyoming | 245,597 | 0.28816 | 312,536 | 0.35946 | 66,939 | 330,734 | 0.38039 |

**Suzan G. LeVine,**

*Principal Deputy Assistant Secretary, Employment and Training, Labor.*

[FR Doc. 2021–12604 Filed 6–15–21; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petitions for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice includes the summaries of two petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 16, 2021.

**ADDRESSES:** You may submit your comments including the docket number of the petition by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Jessica Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Jessica Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Senk.Jessica@dol.gov* (email), or 202–693–9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## II. Petitions for Modification

*Docket Number:* M–2021–002–M.

*Petitioner:* Tata Chemicals Soda Ash Partners, P.O. Box 551, Green River, Wyoming (Zip 82935).

*Mine:* Tata Chemicals Mine, MSHA ID No. 4800155, located in Sweetwater County, Wyoming.

*Regulation Affected:* 30 CFR 57.22305 (Approved equipment (III mines)).

*Modification Request:* The petitioner requests a modification of the existing standard, to permit an alternative method of compliance for the respiratory protection of miners. The petitioner proposes to use a non-MSHA approved, intrinsically safe air purifying respirator (PAPR) product called a 3M Versaflo TR–800 (TR–800) under normal mining conditions in or beyond the last open crosscut, and where methane may enter the air current.

The petitioner states that:

(a) The TR–800 PAPR respirator will offer miners the best respiratory protection possible from exposure to nuisance dust and incorporate the latest available technology in respiratory protection.

(b) Tata's safety department has spent time researching available PAPRs and have found only two respirators with MSHA approval. One, the 3M Airstream model has been discontinued by the manufacturer, and the other, the Kasco K80 ET8 can create problems with communication. Specifically, miners depend highly on communication and their ability to see, and the Kasco K80 ET8 can cause communication problems due to the hood being too large requiring removal by miners to hear or speak. In addition, the hood is so large a miner's peripheral vision may be impaired.

(c) The TR–800 provides a level of respiratory protection and safety equal to the 3M Airstream. This unit provides an alternative means of respiratory protection for different tasks which miners are required to perform and affords Tata an additional option to provide respiratory protection for employees.

(d) The TR–800 unit is designed and approved under the following standards for the United States and Canada: Underwriter Laboratories (UL) UL913; UL 60079–0; UL 60079–11; UL 62133 (Battery Pack); UL marked for intrinsic safety when used with the battery, Canada/Canadian Standards Association (CAN/CSA) CAN/CSA C22.2 No. 60079–0; CAN/CSA C22.2 No. 60079–11; and CAN/CSA–E62133.

(e) The TR–800 keeps the air flowing—a multi-speed blower functions up to 16,000 feet and battery offers long run time, less charge time and, ultimately, reduced down time.

(f) The TR–800 utilizes cartridges to help protect against certain gas and vapors, combined with filters for protection against particulates.

(g) The TR–800 PAPR respirator allows the operator to wear the 3M TR–800 unit without using his/her issued hardhat.

(h) The TR–800 unit can be easily disassembled and cleaned.

The petitioner proposes the following alternative method:

(a) While not in operation, the TR–800 units will be charged out-by the last open crosscut utilizing the manufacturer's approved battery charger.

(b) Affected mine employees will be trained in the proper use and care of the TR–800 PAPR unit in accordance with established manufacturer guidelines. Task training and annual refresher training will be documented using MSHA form 5000–23.

(c) If 1.0 percent or more methane is detected, the procedures in 30 CFR part 57.22234 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

*Docket Number:* M–2021–003–M.

*Petitioner:* Tata Chemicals Soda Ash Partners, P.O. Box 551, Green River, Wyoming (Zip 82935).

*Mine:* Tata Chemicals Mine, MSHA ID No. 4800155, located in Sweetwater County, Wyoming.

*Regulation Affected:* 30 CFR 57.22305 (Approved equipment (III mines)).

*Modification Request:* The petitioner requests a modification of the existing standard, to permit an alternative method of compliance for the respiratory protection of miners. The petitioner proposes to use a non-MSHA approved, intrinsically safe air purifying respirator (PAPR) product called a CleanSpace EX under normal mining conditions in or beyond the last open crosscut and where methane may enter the air current.

The petitioner states that:

(a) The CleanSpace EX PAPR respirator will offer miners the best respiratory protection possible from exposure to nuisance dust and incorporate the latest available technology in respiratory protection.

(b) Tata's safety department has spent time researching available PAPRs and have found only two respirators with MSHA approval. One, the 3M Airstream model has been discontinued by the manufacturer, and the other, the Kasco K80 ET8 can create problems with communication. Specifically, miners depend highly on communication and their ability to see, and the Kasco K80 ET8 can cause communication problems due to the hood being too large requiring removal by miners to hear or speak. In addition, the hood is so large a miner's peripheral vision may be impaired.

(c) The CleanSpace EX provides a level of respiratory protection and safety equal to the 3M TR–800 with additional enhancements to meet the needs of the miners. This unit provides an alternative means of respiratory protection for different tasks which miners are required to perform and affords Tata an additional option to provide respiratory protection for employees.

(d) The CleanSpace EX unit is certified by Underwriter Laboratories (UL) under the American National Standards Institute/UL 60079–11 standard. Per this certification, the CleanSpace EX unit is specialized to be used in hazardous locations; has met the most onerous level of intrinsic safety protection: and the level of protection is acceptable for use in mines susceptible to firedamp.

(e) The CleanSpace EX incorporates a lithium polymer battery that does not detach from the electrical circuit and

charges as a complete unit. It has an 8-hour continual use with a rapid 2 hour re-charge.

(f) The CleanSpace EX unit provides a NIOSH approved high capacity, high efficiency (HEPA) particulate/vapor filter for the half mask and a NIOSH approved HEPA particulate filter for the full facemask.

(g) NIOSH has approved the half mask or the full-face mask. The CleanSpace EX does not restrict the vision or impair communication of the user.

(h) The CleanSpace EX allows the operator to wear his issued hardhat with miner's headlamp.

(i) The CleanSpace EX incorporates technology which places the filter housing and fan assembly above the shoulders. This design addresses several ergonomic restrictions. The unit frees the operator of having to wear the fan and filter assembly around their waist. Furthermore, there is not a hose attached to the filter/battery assembly which could create additional potential hazards.

(j) The CleanSpace EX also affords Tata Chemicals the ability to quantitatively fit test employees.

(k) The CleanSpace EX respirator provides a level of comfort beyond additional PAPR units when operating mining equipment due to limited space and mobility in the operator's cab.

(l) The CleanSpace EX unit can be easily disassembled and cleaned.

The petitioner proposes the following alternative method:

(a) While not in operation, the CleanSpace EX units will be charged out-by the last open crosscut utilizing the manufacturer's approved battery charger.

(b) Affected mine employees will be trained in the proper use and care of the CleanSpace EX PAPR unit in accordance with established manufacturer guidelines. Task training and annual refresher training will be documented using MSHA form 5000–23.

(c) If 1.0 percent or more methane is detected, the procedures in 30 CFR part 57.22234 will be followed.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Jessica Senk,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2021–12608 Filed 6–15–21; 8:45 am]

**BILLING CODE 4520–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

**[OMB Control No. 1219–0119]**

### Proposed Extension of Information Collection; Diesel-Powered Equipment in Underground Coal Mines

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: Requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Diesel-Powered Equipment in Underground Coal Mines.

**DATES:** All comments must be received on or before August 16, 2021.

**ADDRESSES:** You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

*Electronic Submissions:* Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for docket number MSHA–2021–0007. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.
- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

*Written/Paper Submissions:* Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jessica Senk, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

MSHA requires mine operators to provide important safety and health protections to underground coal miners who work on and around diesel-powered equipment. The engines powering diesel equipment are potential contributors to fires and explosion hazards in the confined environment of an underground coal mine where combustible coal dust and explosive methane gas are present. Diesel equipment operating in underground coal mines also can pose serious health risks to miners from exposure to diesel exhaust emissions, including diesel particulates, oxides of nitrogen, and carbon monoxide. Diesel exhaust is a lung carcinogen in animals.

Information collection requirements are found in: Section 75.1901(a), Diesel fuel requirements; section 75.1911(j), Fire suppression systems for diesel-powered equipment and fuel transportation units; section 75.1912(i), Fire suppression systems for permanent underground diesel fuel storage facilities; sections 75.1914(f)(1), (f)(2), (g)(5), (h)(1), and (h)(2), Maintenance of diesel-powered equipment; and sections 75.1915(b)(5), (c)(1), and (c)(2), Training and qualification of persons working on diesel-powered equipment.

**II. Desired Focus of Comments**

MSHA is soliciting comments concerning the proposed information collection related to Diesel-Powered Equipment in Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Background documents related to this information collection request are available at *https://regulations.gov* and in DOL–MSHA located at 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**III. Current Actions**

This information collection request concerns provisions for Diesel-Powered Equipment in Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

*Type of Review:* Extension, without change, of a currently approved collection.

*Agency:* Mine Safety and Health Administration.

*OMB Number:* 1219–0119.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 126.

*Frequency:* On occasion.

*Number of Responses:* 170,641.

*Annual Burden Hours:* 13,844 hours.

*Annual Respondent or Recordkeeper Cost:* $312,294.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

**Jessica Senk,**

*Certifying Officer.*

[FR Doc. 2021–12606 Filed 6–15–21; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice includes the summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 16, 2021.

**ADDRESSES:** You may submit your comments including the docket number of the petition by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452,

*Attention:* Jessica D. Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

**FOR FURTHER INFORMATION CONTACT:** Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Senk.Jessica@dol.gov,* (email), or 202–693–9441 (facsimile). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

**I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

**II. Petition for Modification**

*Docket Number:* M–2021–001–M.

*Petitioner:* Haile Gold Mine, Inc., 7980 Haile Gold Mine Rd., Kershaw, SC (ZIP 29067).

*Mine:* Haile Gold Mine, MSHA ID No. 38–00600, located in Lancaster County, South Carolina.

*Regulation Affected:* 30 CFR 49.2(c) (Availability of mine rescue teams).

*Modification Request:* The petitioner requests a modification of the existing standard, 30 CFR 49.2(c), to permit an alternative method of compliance with the standard with respect to the requirement for a minimum of one year underground mine rescue experience for all members of an underground rescue team.

The petitioner states that:

(a) Haile Gold Mine is a small and remote mine, with no underground mine rescue coverage located in the State of South Carolina.

(b) The closest underground mine rescue stations that could provide mine rescue coverage are located in Luttrell, Tennessee, and Ellijay, Georgia. These are 275 miles and 341 miles away, respectively, by ground travel.

(c) Pursuant to 30 CFR 49.2(f), except where alternative compliance is permitted under 30 CFR 49.3 or 30 CFR 49.4, no mine served by a mine rescue team shall be located more than two hours ground travel time from the mine rescue station with which the rescue team is associated.

(d) The Haile Gold Mine currently employs approximately 536 miners and produces approximately 100,000 tons per day. The mine operates open pit and will commence underground mining in

2021 with two production shifts per day, operating seven days per week.

(e) The Haile Gold Mine proposes to provide the required mine rescue coverage during the expanded underground development with 12 fully trained employees. The underground development team will be comprised of current surface mine rescue, safety, and underground department employees, not all of whom will meet the required one year of underground rescue experience.

The petitioner proposes the following alternative method:

(a) Prior to initiation of underground development, each underground mine rescue team member will receive the following training from a fully qualified MSHA Underground Mine Rescue instructor:

1. 40 hours of 30 CFR. part 48 Underground Mining Safety Training;

2. Successful completion of physical/medical fitness exam in compliance with 30 CFR 49.7;

3. 20 hours of initial underground mine rescue training on the use, care, and maintenance of a BG–4 positive pressure closed circuit breathing apparatus;

4. First Aid and CPR certification; and

5. All other training required in 30 CFR part 49.

(b) A mine rescue station will be established on site compliant with 30 CFR 49.5.

(c) As the underground mine develops, additional surface mine rescue personnel onsite will receive the following training from a fully qualified MSHA Underground Mine Rescue instructor:

1. Successful completion of physical/medical fitness exam in compliance with 30 CFR 49.7;

2. 40 hours of 30 CFR part 48 Underground Mining Safety Training;

3. 20 hours of initial underground mine rescue training on the use, care, and maintenance on a BG–4 positive pressure closed circuit breathing apparatus; and;

4. All other training required in 30 CFR part 49.

(d). All underground rescue team members will attend monthly training following 30 CFR part 49 requirements after completion of their initial 20 hours of training.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Jessica Senk,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2021–12607 Filed 6–15–21; 8:45 am]

**BILLING CODE 4520–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

**[OMB Control No. 1219–0040]**

### Proposed Extension of Information Collection; Independent Contractor Registration and Identification

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: Requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Independent Contractor Registration and Identification.

**DATES:** All comments must be received on or before August 16, 2021.

**ADDRESSES:** You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

*Electronic Submissions:* Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for docket number MSHA–2021–0012. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social Security number or confidential business information.
- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

*Written/Paper Submissions:* Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jessica Senk, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

Independent contractors perform services or construction at a mine. They may be engaged in every type of work performed at a mine, including activities such as clearing land, excavating ore, processing minerals, maintaining or repairing equipment, or constructing new buildings or new facilities, such as shafts, hoists, conveyors, or kilns. Independent contractors vary in the number of employees, the type of work performed, and the time spent working at mine sites. Some contractors work exclusively at mining operations while others may work a single contract at a mine and never return to MSHA jurisdiction. MSHA uses the contractor information in this information collection request during inspections to determine the responsibility for compliance with safety and health standards.

#### II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information

collection related to Independent Contractor Registration and Identification. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Background documents related to this information collection request are available at *https://regulations.gov* and in DOL–MSHA located at 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

**III. Current Actions**

This information collection request concerns provisions for Independent Contractor Registration and Identification. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

*Type of Review:* Extension, without change, of a currently approved collection.

*Agency:* Mine Safety and Health Administration.

*OMB Number:* 1219–0040.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 21,602.

*Frequency:* On occasion.

*Number of Responses:* 157,314.

*Annual Burden Hours:* 17,081 hours.

*Annual Respondent or Recordkeeper Cost:* $806.

*MSHA Forms:* MSHA Form 7000–52, Contractor Identification (ID) Request.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov*.

**Jessica Senk,**

*Certifying Officer.*

[FR Doc. 2021–12605 Filed 6–15–21; 8:45 am]

**BILLING CODE 4510–43–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice and request for comment.

**SUMMARY:** The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments should be received on or before August 16, 2021 to be assured consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on the information collection to Mackie Malaka, National Credit Union Administration, 1775 Duke Street, Suite 6060, Alexandria, Virginia 22314; Fax No. 703–519–8579; or email at *PRAComments@NCUA.gov.*

**FOR FURTHER INFORMATION CONTACT:** Address requests for additional information to Mackie Malaka at the address above or telephone 703–548–2704.

**SUPPLEMENTARY INFORMATION:**

*OMB Number:* 3133–0188.

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs.

*Affected Public:* Individuals and Households; Private Sector: Businesses or other for-profits and Not-for-profit institutions.

*Estimated Number of Respondents:* 56,000.

*Estimated Number of Responses per Respondent:* Once per request.

*Estimated Total Annual Burden Hours:* 42,000.

*Request for Comments:* Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Melane Conyers-Ausbrooks, Secretary of the Board, the National Credit Union Administration, on June 11, 2021.

Dated: June 4, 2021.

**Mackie I. Malaka,**

*NCUA PRA Clearance Officer.*

[FR Doc. 2021–12703 Filed 6–15–21; 8:45 am]

**BILLING CODE 7535–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

### Subject 60-Day Notice for the "2022 Survey of Public Participation in the Arts" Proposed Collection; Comment Request

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial

resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection on arts participation in the U.S. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

**DATES:** Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

**ADDRESSES:** Send comments to Sunil Iyengar, National Endowment for the Arts, via email (*research@arts.gov*).

**SUPPLEMENTARY INFORMATION:** The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Dated: June 11, 2021.

**Meghan Jugder,**

*Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.*

[FR Doc. 2021–12653 Filed 6–15–21; 8:45 am]

**BILLING CODE 7537–01–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request; NSF Non-Academic Research Internships for Graduate Students (INTERN) Program

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

**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.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

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

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* NSF INTERN Program Assessment.

*OMB Number:* 3145–NEW.

*Type of Request:* Intent to seek approval to establish an information collection.

*Abstract:* Fostering the growth of a globally competitive and diverse research workforce and advancing the scientific and innovation skills of the Nation is a strategic objective of the National Science Foundation (NSF). The Nation's global competitiveness depends critically on the readiness of the Nation's Science, Technology, Engineering and Mathematics (STEM) workforce and NSF seeks to continue to invest in programs that directly advance this workforce. As part of this effort, NSF invests in a number of graduate student preparedness activities to ensure they are well-prepared for the 21st century STEM Workforce, and a supplemental funding opportunity is available in fiscal year FY 2021 to provide support for graduate students through non-academic research internships (INTERN Program) in any sector of the U.S. economy.

The goal of the INTERN program is three-fold:

1. To provide graduate students with the opportunity to augment their research assistantships with non-academic research internship activities and training opportunities that will complement their academic research training.

2. To allow graduate students to pursue activities aimed at acquiring professional development experience that will enhance their preparation for multiple career pathways after graduation.

3. To encourage the participation of graduate students from groups that have traditionally been underrepresented and underserved in the STEM enterprise: Women, persons with disabilities, African Americans/Blacks, Hispanic Americans, American Indian, Alaska Natives.

In order to support the agency's mission and continue meeting the program's goals, we are asking the graduate students who participated in the INTERN program to report the following information:

- Logistics of the Internship
  - Start and end date
  - Principal Investigator supporting the internship
  - Host organization
  - Host mentor
- Internship Experience
  - Hours worked
  - Job Training
  - Interaction with host mentor
  - Location of the host organization
  - Work environment
  - Company culture
  - Project scope
  - Overall satisfaction
- Industry Best Practices & Skills Development
  - Introducing industry best practices to academic environment
  - Forthcoming Publications resulting from the internship
  - Experiential learning and professional preparation
- Post-graduate/Career Plans
  - General career direction after

graduation
- Helpfulness of the internship experience in making career choices
- Likelihood of working at the host organization or similar organizations

Since the agency will not be able to receive feedback from students by way of annual reports, being able to collect this information will help the managing Program Directors to assess whether the INTERN program helps participants in terms of workforce development, career decisions, and professional preparation, thereby ensuring the program goals are met. In addition, these data will also allow NSF to evaluate the intellectual merit of the program, its broader impact in developing the STEM workforce and its potential to enhance the participation of underrepresented and underserved STEM communities in such traineeships. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, responding to queries from the public, informing the NSF's external Committees of Visitors who serve to evaluate the foundation, working with the NSF's Office of the Inspector General, and supporting the agency's policymaking and internal evaluation and assessment needs.

Information collected in this survey will include the name of the participants, their affiliated organizations, email addresses, and home states. These personal identifiable information (PII) are collected primarily for record tracking and organizing. In addition, questions pertaining to participants' gender, race, ethnicity, and disability status will also be asked but those questions will be marked as voluntary. These PII data will be accessed only by the managing Program Directors, NSF senior management, and supporting staff conducting analyses using the data as authorized by NSF. Any public reporting of data will be in aggregate form, and any personal identifiers will be removed.

*Use of the Information:* The information collected is primarily for program assessment and agency internal evaluation.

*Estimate burden on the public:* Estimated 20 minutes per survey for 250 participants, for a total of 83 hours per year.

*Respondents:* Graduate students who participate in the INTERN program.

*Estimated number of respondents:* 1,000 the first year; 250 annually.

*Average Time per Reporting:* 20 minutes.

*Frequency:* Annually.

*Comments:* 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; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: June 10, 2021.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2021–12666 Filed 6–15–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request; NSF I-Corps Regional Hubs Assessment

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** and one request for a copy of the information collection was received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice.

**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.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

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

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Reporting Requirements for the National Science Foundation (NSF) Innovation Corps (I-Corps) Hubs Program.

*OMB Number:* 3145–NEW.

*Type of Request:* Intent to seek approval to establish an information collection.

*Abstract:* NSF's Division of Industrial Innovation and Partnerships (IIP), within the Engineering Directorate, serves a wide range of grantees across five major programs.

The NSF Innovation Corps (I-Corps) program was established at NSF in FY 2012 to equip scientists with the entrepreneurial tools needed to transform discoveries with commercial realization potential into innovative technologies. The goal of the I-Corps Program is to use experiential education to help researchers reduce the time necessary to translate a promising idea from the laboratory bench to widespread implementation. In addition to accelerating technology translation, NSF seeks to reduce the risk associated with technology development conducted without insight into industry requirements and challenges. The I-Corps Program uses a lean startup approach to encourage scientists to think like entrepreneurs through intensive workshop training and ongoing support. The program focuses on teams comprised of a Principal Investigator, Entrepreneurial Lead, and Mentor that work together to explore commercialization for their research-derived products.

In FY 2017, the American Innovation and Competitiveness Act (AICA), Public Law 114–329, Sec 601, formally authorized and directed the expansion of NSF I-Corps Program by increasing

the economic competitiveness of the United States, enhancing partnerships between academia and industry, developing an American STEM workforce that is globally competitive, and supporting female entrepreneurs and individuals from historically underrepresented groups in STEM through mentorship, education, and training.

To that end, NSF built and has continued expanding an I-Corps National Innovation Network (NIN). NIN is a collection of NSF I-Corps Nodes and Sites that together with NSF implement the I-Corps program to grow and sustain the national innovation ecosystem. I-Corps Nodes are typically large, multi-institutional collaborations that deliver NSF national I-Corps Teams training curriculum as well as recruit and train the National I-Corps instructors. Sites are entrepreneurial centers located at individual colleges and universities to catalyze potential I-Corps teams within their local institutions. Together, the Nodes and Sites serve as the backbone of the NIN.

Recently, IIP published a new I-Corps Program Solicitation, NSF 20–529—NSF Innovation Corps Hubs Program (I-Corps™ Hubs), that has placed a strong emphasis on developing and further expanding the NIN. The I-Corps Hubs Program has strengthened the requirements to support a diverse and inclusive community of innovators, in that teams are encouraged to recruit diverse members at all levels. In addition, the I-Corps Hubs Program also provides new pathways for teams to qualify for the participation in the national I-Corps Teams program (at the Nodes). Through this solicitation, NSF seeks to evolve the current structure, in which NSF I-Corps Teams, Nodes, and Sites are funded through separate programs, towards a more integrated operational model capable of sustained operation at the scope and scale required to support the expansion of the NSF I-Corps Program as directed by AICA.

In order to support the agency's congressional reporting requirements in response to the AICA, we are asking NIN grantees to report the following information:

- Expansion of NIN
  - Number of teams trained
  - Number of teams advancing to national I-Corps Teams program (applicable to I-Corps Hubs and I-Corps Sites)
- STEM Workforce
  - Team size (number of members on the team)
  - Team characteristics (participation of females, veterans, and underrepresented minorities)
  - Participant status at the time of program
- Subsequent Commercialization Outcomes
  - Company formation
  - Following-on funding
    - SBIR Phase I, II funding
    - Other Federal Funding
    - Private Funding (including competition, and prize awards)
  - Revenues (sales, licensing fees, other operational cash flows)

The reporting of this information is in addition to the agency's annual report requirement for the grantees. Not only will the information help the agency report on NIN activities to Congress, they also provide managing Program Directors a means to monitor the operational states of these I-Corps Sites, Nodes, and Hubs, and ensure that their awards are in good standing. These data will also allow NSF to assess these awardees in terms of intellectual, broader, and commercial impacts that are core to our merit review criteria. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, responding to queries from the public, NSF's external merit reviewers who serve as advisors, and NSF's Office of the Inspector General, and supporting the agency's policymaking and internal evaluation and assessment needs.

*Use of the Information:* The information collected is primarily for the agency's AICA Reporting requirements, and other congressional requests.

*Respondents:* I-Corps Sites, Nodes, and Hubs Grantees.

*Estimated number of respondents:* 2,000.

*Average burden per reporting:* 15 minutes per respondent—10 minutes for the record of participation and five minutes for the follow-up survey for an estimate of 250 hours per year.

*Frequency:* Twice a year—once for the record of participation and once for the follow-up survey.

*Comments:* 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; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Dated: June 10, 2021.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2021–12665 Filed 6–15–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2020–0162]**

### Information Collection: Voluntary Reporting of Planned New Reactor Applications

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of submission to the Office of Management and Budget; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Voluntary Reporting of Planned New Reactor Applications.''

**DATES:** Submit comments by July 16, 2021. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2020–0162 when contacting the NRC about the availability of information for this

action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2020–0162. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2020–0162 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML21040A117.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

*B. Submitting Comments*

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2020–0162 in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

## II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Voluntary Reporting of Planned New Reactor Applications.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 1, 2020 (85 FR 77279).

1. *The title of the information collection:* ''Voluntary Reporting of Planned New Reactor Applications.''

2. *OMB approval number:* 3150–0228.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* N/A.

5. *How often the collection is required or requested:* Annually.

6. *Who will be required or asked to respond:* Applicants, licensees, and potential applicants report this information on a strictly voluntary basis.

7. *The estimated number of annual responses:* 20.

8. *The estimated number of annual respondents:* 10.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 610.

10. *Abstract:* This voluntary information collection assists the NRC in determining resource and budget needs as well as aligning the proper allocation and utilization of resources to support applicant submittals, future construction-related activities, and other anticipated part 50 and/or part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) licensing and design certification rulemaking actions. In addition, information provided to the NRC staff is intended to promote early communications between the NRC and the respective addressees about potential 10 CFR part 50 and/or part 52 licensing actions and related activities, submission dates, and plans for construction and inspection activities. The overarching goal of this information collection is to assist the NRC staff more effectively and efficiently plan, schedule, and implement activities and reviews in a timely manner.

Dated: June 11, 2021.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–12614 Filed 6–15–21; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2021–100 and CP2021–103]**

## 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:* June 18, 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

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also

establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. Docket No(s).: MC2021–100 and CP2021–103; Filing Title: USPS Request to Add Priority Mail Express Contract 89 to Competitive Product List and Notice of Filing Materials Under Seal; Filing Acceptance Date: June 10, 2021; Filing Authority: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; Public Representative: Christopher C. Mohr; Comments Due: June 18, 2021.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021–12663 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 4, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 705 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–98, CP2021–101.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2021–12640 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 2, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 194 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–97, CP2021–100.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2021–12644 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 8, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 706 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–99, CP2021–102.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2021–12650 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 2, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 703 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–95, CP2021–98.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2021–12647 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail Express Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 10, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 89 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–100, CP2021–103.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2021–12642 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–12–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 2, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 704 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–96, CP2021–99.

**Sean Robinson,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2021–12651 Filed 6–15–21; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–205; OMB Control No. 3235–0194]**

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*
Rule 24b–1

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 24b–1 (17 CFR 240.24b–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 24b–1 requires a national securities exchange to keep and make available for public inspection a copy of its registration statement and exhibits filed with the Commission, along with any amendments thereto.

There are 24 national securities exchanges that spend approximately one-half hour each per year complying with this rule, for an aggregate total time burden of approximately 12 hours per year. The staff estimates that the average cost per respondent is approximately $65.18 per year ($13.97 for copying plus $51.21 for storage), resulting in a total cost burden for all respondents of approximately $1,564 per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed 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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, 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.*

Dated: June 10, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12657 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92149; File No. SR–CboeBYX–2021–013]**

### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data

June 10, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2021, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to introduce a new data product to be known as Short Sale Volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**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 11.22(f) to provide for a new data product to be known as Short Sale Volume data. The proposal introduces Short Sale Volume data that will be available for purchase to BYX Members (''Members'') and non-Members.[3] The proposal is similar to products offered by the New York Stock Exchange LLC (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'') which provide short sale volume information.

A description of each market data product offered by the Exchange is described in Exchange Rule 11.22. The Exchange proposes to amend Rule 11.22(f) to introduce and add a description of the Short Sale Volume data product. The Exchange proposes to describe the Short Sale Volume data as ''a data product that summarizes short sale volume (shares traded on BYX). Short Sale Volume data is available on an end-of-day and intraday basis.''

The Exchange proposes to offer Short Sale Volume data on an end-of-day and intraday basis which will be available for purchase by Members and non-Members. Specifically, the Exchange proposes to offer an end-of-day short sale volume report that includes the date, session (*i.e.,* Pre-Opening Session,[4] Regular Trading Hours,[5] or After Hours Trading Session [6]),[7] symbol, trade count, buy and sell volume, type of sale (*i.e.,* sell, sell short, or sell short exempt), capacity (*i.e.,* principal, agent, or riskless principal), and retail order indicator. The end-of-day Short Sale Volume data would include same day corrections to short sale volume.

The Exchange also proposes to offer Short Sale Volume data on an intraday basis that will provide the same information to that of end-of-day Short Sale Volume data, but will be produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured through 9:50 a.m., and so forth. Each update will represent combined data captured from the current ''snapshot'' and all previous ''snapshots'' and thus will provide short sale volume data on an aggregate basis. The intraday Short Sale Volume data will not include same day corrections, as proposed in the end-of-day data. The proposed data products provide proprietary BYX trade data and do not include trade data from any other exchange.

The proposed end-of-day and intraday Short Sale Volume data will be available for purchase on a monthly subscription basis. Subscribers to the end-of-day Short Sale Volume data will receive a daily end-of-day file. Similarly, subscribers to the intraday Short Sale Volume data will receive data which will be produced and updated every 10 minutes as described above. Additionally, end-of-day and intraday Short Sale Volume data will be available on a historical basis for purchase as far back as January 3, 2017.[8] The subscription files and historical ad hoc files will include the same data points. Further, the Exchange will establish a monthly subscriber fee and historical ad hoc fee for the Short Sale Volume data by way of a separate proposed rule change, which the Exchange will submit in connection with the launch of the Short Sale Volume data product.

The Exchange anticipates a wide variety of market participants to purchase Short Sale Volume data, including, but not limited to active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize Short Sale Volume data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange believes the proposed Short Sale Volume data products may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, Short Sale Volume data may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer similar data products.[9]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Short Sale Volume data

[3] The Exchange intends to submit a separate rule filing to establish fees for Short Sale Volume data.

[4] *See* Exchange Rule 1.5(r).

[5] *See* Exchange Rule 1.5(w).

[6] *See* Exchange Rule 1.5(c).

[7] Session information will only be available in data after July 31, 2020.

[8] Historical data will be available on an ad hoc basis.

[9] *See* the Nasdaq Daily Short Sale Volume files at *https://nasdaqtrader.com/Trader.aspx?id=shortsale. See also* the NYSE TAQ Group Short Sales and Short Volume at *https://www.nyse.com/market-data/historical/taq-nyse-group-short-sales.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

would further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Short Sale Volume data. The proposed rule change would benefit investors by providing access to the Short Sale Volume data, which may promote better informed trading. Particularly, information regarding Short Sale Volume may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security.

Moreover, other exchanges offer similar data products.[13] Nasdaq offers a daily short sale volume report and NYSE offers the TAQ group short sales and short volume product, which provide similar information to that included in the proposed end-of-day Short Sale Volume data product. The Nasdaq daily short sale volume file reflects the aggregate number of shares executed on Nasdaq, BX and PSX during regular trading hours.[14] Specifically, the Nasdaq daily short sale volume provides the following information: Date, symbol, volume during regular trading hours, and CTA market identifier. The NYSE daily short volume file reflects a summary of short sale volume for securities traded on NYSE, NYSE American, NYSE Arca, NYSE National, and NYSE Chicago. Specifically, the NYSE short sales and short volume product provides the following information: Date, symbol, short exempt volume, short volume, total volume of the short sale transaction, and market identifier. NYSE and Nasdaq also offer monthly short sale volume reports which offer different information than that provided in their daily short sale reports.

The Exchange proposes to include different and additional data in the proposed products. Specifically, the Exchange proposes to include session information, trade count, capacity, and a retail order indicator in the proposed data product which are not currently provided in either the NYSE or Nasdaq short sale volume product offerings. Further, the Exchange proposes to offer an intraday Short Sale Volume data product, which is not offered by other exchanges. The Exchange believes the additional data points and the intraday data will benefit market participants because they will provide visibility into market activity that is not currently available. Further it will allow market participants to better understand the changing risk environment on a daily and intraday basis. Therefore, the Exchange believes it is reasonable to include such data in the proposed products.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer data products similar to those offered by other competitor equities exchanges.[15] The Exchange is proposing to introduce Short Sale Volume data in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, at least two other U.S. equity exchanges offer a market data product that is similar to the proposed Short Sale Volume data.[16] As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2021–013 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–CboeBYX–2021–013. 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–CboeBYX–2021–013, and should be submitted on or before July 7, 2021.

[13] *See* Supra note 9.

[14] *See https://nasdaqtrader.com/Trader.aspx?id=shortsale.*

[15] *See* Supra note 9.

[16] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12592 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92142; File No. SR–LCH SA 2021–001]**

## Self-Regulatory Organizations; LCH SA; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to the Clearing of Single-Name Credit Default Swaps by U.S. Customers

June 10, 2021.

On April 13, 2021, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules to allow LCH SA to offer clearing services in respect of single-name credit default swaps that are security-based swaps submitted by Clearing Members on behalf of their U.S. Clients for clearing by LCH SA. The proposed rule change was published for comment in the **Federal Register** on May 3, 2021.[3] To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is June 17, 2021.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider LCH SA's proposed rule change.

Accordingly, pursuant to Section 19(b)(2) [5] of the Act, and for the reasons discussed above, the Commission designates August 1, 2021, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–LCH SA–2021–001).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12588 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92145; File No. SR–FICC–2020–804]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of No Objection To Advance Notice To Modify the Calculation of the MBSD VaR Floor To Incorporate a Minimum Margin Amount

June 10, 2021.

On November 27, 2020, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–FICC–2020–804 (''Advance Notice'') pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act''),[1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act'').[3] In the Advance Notice, FICC proposes to add a minimum margin amount calculation to its margin methodology to enhance FICC's margin collections as needed in response to periods of extreme market volatility, as described more fully below. The Advance Notice was published for public comment in the **Federal Register** on January 6, 2021.[4] Upon publication of the Notice of Filing, the Commission extended the review period of the Advance Notice for an additional 60 days because the Commission determined that the Advance Notice raised novel and complex issues.[5] On March 12, 2021, the Commission, by the Division of Trading and Markets, pursuant to delegated authority,[6] requested additional information from FICC pursuant to Section 806(e)(1)(D) of the Act.[7] The request for information tolled the Commission's period of review of the Advance Notice until 60 days from the date of the Commission's receipt of the information requested from FICC, absent an additional information request.[8]

The Commission has received comments on the changes proposed in the Advance Notice.[9] In addition, the

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to the Clearing of Single-Name Credit Default Swaps by U.S. Customers, Exchange Act Release No. 34–91676 (April 26, 2021); 86 FR 23445 (May 3, 2021) (SR–LCH SA–2021–001).

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] 15 U.S.C. 78a *et seq.*

[4] Securities Exchange Act Release No. 90834 (December 31, 2020), 86 FR 584 (January 6, 2021) (File No. SR–FICC–2020–804) (''Notice of Filing''). FICC also filed a related proposed rule change with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder. 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b-4, respectively. FICC seeks approval of the proposed changes to its rules necessary to implement the Advance Notice (the ''Proposed Rule Change''). The Proposed Rule Change was published in the **Federal Register** on December 10, 2020. Securities Exchange Act Release No. 90568 (December 4, 2020), 85 FR 79541 (December 10, 2020) (SR–FICC–2020–017). On December 30, 2020, the Commission published a notice designating a longer period of time for Commission action and a longer period for public comment on the Proposed Rule Change. Securities Exchange Act Release No. 90794 (December 23, 2020), 85 FR 86591 (December 30, 2020) (SR–FICC–2020–017). On February 16, 2021, the Commission published an order instituting proceedings to determine whether to approve or disapprove the Proposed Rule Change. Securities Exchange Act Release No. 91092 (February 9, 2021), 86 FR 91092 (February 16, 2021) (SR–FICC–2020–017).

[5] Pursuant to Section 806(e)(1)(H) of the Act, the Commission may extend the review period of an advance notice for an additional 60 days, if the changes proposed in the advance notice raise novel or complex issues, subject to the Commission providing the FMU with prompt written notice of the extension. 12 U.S.C. 5465(e)(1)(H); *see also* Notice of Filing, *supra* note 4 at 590 (explaining the Commission's rationale for determining that the proposed changes in the Advance Notice raised novel and complex issues because (1) the proposed changes to FICC's margin model are a direct response by FICC to address the unique circumstances that occurred during the pandemic-related market volatility in March and April 2020, and (2) the proposed changes potentially could impact the mortgage market).

[6] 17 CFR 200.30–3(a)(93).

[7] 12 U.S.C. 5465(e)(1)(D).

[8] *See* 12 U.S.C. 5465(e)(1)(E)(ii) and (G)(ii); *see* Memorandum from the Office of Clearance and Settlement, Division of Trading and Markets, titled ''Commission's Request for Additional Information,'' *available at https://www.sec.gov/comments/sr-ficc-2020-804/srficc2020804-8490035-229981.pdf.*

[9] Comments on the Advance Notice are *available at https://www.sec.gov/comments/sr-ficc-2020-804/srficc2020804.htm.* Comments on the Proposed

Continued

Commission received a letter from FICC responding to the comments.[10] This publication serves as notice of no objection to the Advance Notice.

## I. The Advance Notice

### *A. Background*

FICC, through MBSD, serves as a central counterparty (''CCP'') and provider of clearance and settlement services for the mortgage-backed securities (''MBS'') markets. A key tool that FICC uses to manage its respective credit exposures to its members is the daily collection of margin from each member. The aggregated amount of all members' margin constitutes the Clearing Fund, which FICC would access should a defaulted member's own margin be insufficient to satisfy losses to FICC caused by the liquidation of that member's portfolio.

Each member's margin consists of a number of applicable components, including a value-at-risk (''VaR'') charge (''VaR Charge'') designed to capture the potential market price risk associated with the securities in a member's portfolio. The VaR Charge is typically the largest component of a member's margin requirement. The VaR Charge is designed to provide an estimate of FICC's projected liquidation losses with respect to a defaulted member's portfolio at a 99 percent confidence level.

To determine each member's daily VaR Charge, FICC generally uses a model-based calculation designed to quantify the risks related to the volatility of market prices associated with the securities in a member's portfolio.[11] As an alternative to this calculation, FICC also uses a haircut-based calculation to determine the ''VaR Floor,'' which replaces the model-based calculation to become a member's VaR Charge in the event that the VaR Floor is greater than the amount determined by the model-based calculation.[12] Thus, the VaR Floor currently operates as a minimum VaR Charge.

During the period of extreme market volatility in March and April 2020, FICC's current model-based calculation and the VaR Floor haircut-based calculation generated VaR Charge amounts that were not sufficient to mitigate FICC's credit exposure to its members' portfolios at a 99 percent confidence level. Specifically, during the period of extreme market volatility, FICC observed that its margin collections yielded backtesting deficiencies beyond FICC's risk tolerance.[13] FICC states that these deficiencies arose from a particular aspect of its margin methodology with respect to MBS (particularly, higher coupon TBAs [14]), *i.e.,* that current prices may reflect higher mortgage prepayment risk than FICC's margin methodology currently takes into account during periods of extreme market volatility. In the Advance Notice, FICC proposes to revise the margin methodology in its Rules [15] and its quantitative risk model [16] to better address the risks posed by member portfolios holding TBAs during such volatile market conditions.

### *B. Minimum Margin Amount*

FICC proposes to introduce a new minimum margin amount into its margin methodology. Under the proposal, FICC would revise the existing definition of the VaR Floor to mean the greater of (1) the current haircut-based calculation, as described above, and (2) the proposed minimum margin amount, which would use a dynamic haircut method based on observed TBA price moves. Application of the minimum margin amount would increase FICC's margin collection during periods of extreme market volatility, particularly when TBA price changes would otherwise significantly exceed those projected by either the model-based calculation or the current VaR Floor calculation.

Specifically, the minimum margin amount would serve as a minimum VaR Charge for net unsettled positions, calculated using the historical market price changes of certain benchmark TBA securities.[17] FICC proposes to calculate the minimum margin amount per member portfolio.[18] The proposal

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Rule Change are *available at https://www.sec.gov/comments/sr-ficc-2020-017/srficc2020017.htm.* Because the proposals contained in the Advance Notice and the Proposed Rule Change are the same, all comments received on the proposal were considered regardless of whether the comments were submitted with respect to the Advance Notice or the Proposed Rule Change.

[10] *See* Letter from Timothy J. Cuddihy, Managing Director of Depository Trust & Clearing Corporation Financial Risk Management, (March 5, 2021) (''FICC Letter'').

[11] The model-based calculation, often referred to as the sensitivity VaR model, relies on historical risk factor time series data and security-level risk sensitivity data. Specifically, for TBAs, the model calculation incorporates the following risk factors: (1) Key rate, which measures the sensitivity of a price change to changes in interest rates; (2) convexity, which measures the degree of curvature in the price/yield relationship of key interest rates; (3) spread, which is the yield spread added to a benchmark yield curve to discount a TBA's cash flows to match its market price; (4) volatility, which reflects the implied volatility observed from the swaption market to estimate fluctuations in interest rates; (5) mortgage basis, which captures the basis risk between the prevailing mortgage rate and a blended Treasury rate; and (6) time risk factor, which accounts for the time value change (or carry adjustment) over an assumed liquidation period. *See* Securities Exchange Act Release No. 79491 (December 7, 2016), 81 FR 90001, 90003–04 (December 13, 2016) (File No. SR–FICC–2016–007).

[12] FICC uses the VaR Floor to mitigate the risk that the model-based calculation does not result in margin amounts that accurately reflect FICC's applicable credit exposure, which may occur in certain member portfolios containing long and short positions in different asset classes that share a high degree of historical price correlation.

[13] Backtesting is an ex-post comparison of actual outcomes (*i.e.,* the actual margin collected) with expected outcomes derived from the use of margin models. *See* 17 CFR 240.17Ad–22(a)(1). FICC conducts daily backtesting to determine the adequacy of its margin assessments. MBSD's monthly backtesting coverage ratio with respect to margin amounts was 86.6 percent in March 2020 and 94.2 percent in April 2020. *See* Notice of Filing, *supra* note 4 at 585.

[14] The vast majority of agency MBS trading occurs in a forward market, on a ''to-be-announced'' or ''TBA'' basis. In a TBA trade, the seller agrees on a sale price, but does not specify which particular securities will be delivered to the buyer on settlement day. Instead, only a few basic characteristics of the securities are agreed upon, such as the MBS program, maturity, coupon rate, and the face value of the bonds to be delivered.

[15] The MBSD Clearing Rules are *available at https://www.dtcc.com/legal/rules-and-procedures.aspx.*

[16] As part of the Advance Notice, FICC filed Exhibit 5B—Proposed Changes to the Methodology and Model Operations Document MBSD Quantitative Risk Model (''QRM Methodology''). Pursuant to 17 CFR 240.24b–2, FICC requested confidential treatment of Exhibit 5B.

[17] FICC would consider the MBSD portfolio as consisting of four programs: Federal National Mortgage Association (''Fannie Mae'') and Federal Home Loan Mortgage Corporation (''Freddie Mac'') conventional 30-year mortgage-backed securities (''CONV30''), Government National Mortgage Association (''Ginnie Mae'') 30-year mortgage-backed securities (''GNMA30''), Fannie Mae and Freddie Mac conventional 15-year mortgage-backed securities (''CONV15''), and Ginnie Mae 15-year mortgage-backed securities (''GNMA15''). Each program would, in turn, have a default benchmark TBA security.

FICC would map 10-year and 20-year TBAs to the corresponding 15-year TBA security benchmark. As of August 31, 2020, 20-year TBAs account for less than 0.5%, and 10-year TBAs account for less than 0.1%, of the positions in MBSD clearing portfolios. FICC states that these TBAs were not selected as separate TBA security benchmarks due to the limited trading volumes in the market. *See* Notice of Filing, *supra* note 4 at 586.

[18] The specific calculation would involve the following: FICC would first calculate risk factors using historical market prices of the benchmark TBA securities. FICC would then calculate each member's portfolio exposure on a net position across all products and for each securitization program (*i.e.,* CONV30, GNMA30, CONV15 and GNMA15). Finally, FICC would multiply a ''base risk factor'' by the absolute value of the member's net position across all products, plus the sum of each risk factor spread to the base risk factor multiplied by the absolute value of its corresponding position, to determine the minimum margin amount.

To determine the base risk factor, FICC would calculate an ''outright risk factor'' for GNMA30 and CONV30, which constitute the majority of the TBA market and of positions in MBSD portfolios. For each member's portfolio, FICC would assign the base risk factor based on whether GNMA30 or CONV30 constitutes the larger absolute net market value in the portfolio. If GNMA30 constitutes the larger absolute net market value in the portfolio, the

would allow offsetting between short and long positions within TBA securities programs since the TBAs aggregated in each program exhibit similar risk profiles and can be netted together to calculate the minimum margin amount to cover the observed market price changes for each portfolio.

The proposal would allow a lookback period for those historical market price moves and parameters of between one and three years, and FICC would set the initial lookback period for the minimum margin amount calculation at two years.[19] FICC states that the minimum margin amount would improve the responsiveness of its margin methodology during periods of market volatility because it would have a shorter lookback period than the model-based calculation, which reflects a ten-year lookback period.[20]

## II. Discussion and Commission Findings

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, the stated purpose of the Clearing Supervision Act is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for SIFMUs and strengthening the liquidity of SIFMUs.[21]

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe regulations containing risk management standards for the payment, clearing, and settlement activities of designated clearing entities engaged in designated activities for which the Commission is the supervisory agency.[22] Section 805(b) of the Clearing Supervision Act provides the following objectives and principles for the Commission's risk management standards prescribed under Section 805(a):[23]

- To promote robust risk management;
- to promote safety and soundness;
- to reduce systemic risks; and
- to support the stability of the broader financial system.

Section 805(c) provides, in addition, that the Commission's risk management standards may address such areas as risk management and default policies and procedures, among others areas.[24]

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and Section 17A of the Exchange Act (the ''Clearing Agency Rules'').[25] The Clearing Agency Rules require, among other things, each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for its operations and risk management practices on an ongoing basis.[26] As such, it is appropriate for the Commission to review advance notices against the Clearing Agency Rules and the objectives and principles of these risk management standards as described in Section 805(b) of the Clearing Supervision Act. As discussed below, the Commission believes the proposals in the Advance Notice are consistent with the objectives and principles described in Section 805(b) of the Clearing Supervision Act[27] and in the Clearing Agency Rules, in particular Rule 17Ad–22(e)(4)(i) and (e)(6)(i) and (v).[28]

### *A. Consistency With Section 805(b) of the Clearing Supervision Act*

The Commission believes that the Advance Notice is consistent with the stated objectives and principles of Section 805(b) of the Clearing Supervision Act.[29] Specifically, the Commission believes that the changes proposed in the Advance Notice are consistent with promoting robust risk management, promoting safety and soundness, reducing systemic risks, and supporting the broader financial system.[30]

#### 1. Promoting Robust Risk Management and Safety and Soundness

The Commission believes that adopting the proposed minimum margin amount would be consistent with the promotion of robust risk management and safety and soundness at FICC. FICC proposes to add the minimum margin amount calculation to its margin methodology to better ensure that FICC collects sufficient margin amounts during periods of extreme market volatility to cover the costs that FICC might incur upon liquidating a defaulted member's portfolio.

Specifically, FICC designed the minimum margin amount calculation to better manage the risk of incurring costs associated with increased volatility in a defaulted member's portfolio that contains a large position in TBAs. As described above, during the period of extreme market volatility in March and April 2020, FICC's margin methodology generated margin amounts that were not sufficient to mitigate FICC's credit exposure to its members' portfolios at a 99 percent confidence level. The minimum margin amount would collect additional margin in such circumstances, *i.e.,* when the market price volatility implied by both the current VaR Charge calculation and the current VaR Floor calculation is lower than the market price volatility from corresponding price changes of the proposed TBA securities benchmarks observed during the proposed lookback period.

The Commission believes that FICC's implementation of the minimum margin amount would result in margin levels that better reflect the risks and particular attributes of member portfolios holding positions in TBAs,

base risk factor would be equal to the outright risk factor for GNMA30. If CONV30 constitutes the larger absolute net market value in the portfolio, the base risk factor would be equal to the outright risk factor for CONV30.

For a detailed example of the minimum margin amount calculation, *see* Notice of Filing, *supra* note 4 at 586–87.

[19] FICC would be permitted to adjust the lookback period within the range in accordance with FICC's model risk management practices and governance procedures set forth in the Clearing Agency Model Risk Management Framework. *See* Securities Exchange Act Release No. 81485 (August 25, 2017), 82 FR 41433 (August 31, 2017) (SR–DTC–2017–008; SR–FICC–2017–014; SR–NSCC–2017–008); Securities Exchange Act Release No. 84458 (October 19, 2018), 83 FR 53925 (October 25, 2018) (SR–DTC–2018–009; SR–FICC–2018–010; SR–NSCC–2018–009); Securities Exchange Act Release No. 88911 (May 20, 2020), 85 FR 31828 (May 27, 2020) (SR–DTC–2020–008; SR–FICC–2020–004; SR–NSCC–2020–008).

[20] Notice of Filing, *supra* note 4 at 586; FICC Letter at 5.

[21] *See* 12 U.S.C. 5461(b).

[22] 12 U.S.C. 5464(a)(2).

[23] 12 U.S.C. 5464(b).

[24] 12 U.S.C. 5464(c).

[25] 17 CFR 240.17Ad–22. *See* Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11). *See also* Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7–03–14) (''Covered Clearing Agency Standards''). FICC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5).

[26] *Id.*

[27] 12 U.S.C. 5464(b).

[28] 17 CFR 240.17Ad–22(e)(4)(i) and (e)(6)(i).

[29] 12 U.S.C. 5464(b).

[30] Several of the issues raised by the commenters are directed at the Proposed Rule Change and will be addressed in that context. These comments generally relate to the proposal's impact on competition and its consistency with the Exchange Act. *See* Letter from James Tabacchi, Chairman, Independent Dealer and Trade Association, Mike Fratantoni, Chief Economist/Senior Vice President, Mortgage Bankers Association (January 26, 2021) (''IDTA/MBA Letter I'') at 2–6; Letter from Christopher A. Iacovella, Chief Executive Officer, American Securities Association (January 28, 2021) (''ASA Letter'') at 1–2; Letter from Christopher Killian, Managing Director, Securities Industry and Financial Markets Association (January 29, 2021) (''SIFMA Letter I'') at 2–4 (commenting on impact on competition and the application of Section 17A(b)(3)(F) of the Exchange Act). The Commission's evaluation of the Advance Notice is conducted under the Clearing Supervision Act and, as noted above, generally considers whether the proposal would promote robust risk management, promote safety and soundness, reduce systemic risks, and support the broader financial system.

including in times of increased market price volatility such as what occurred in March and April 2020. Accordingly, the Commission believes that the proposal is consistent with promoting robust risk management because the minimum margin amount would enable FICC to better manage the relevant risks.

Further, the Commission has reviewed and analyzed FICC's analyses regarding how the proposal would improve FICC's backtesting coverage, which demonstrate that the proposal would result in less credit exposure for FICC to its members. By helping to ensure that FICC collects margin amounts sufficient to manage the risk associated with its members' portfolios holding large TBA positions during periods of extreme market volatility, the proposed minimum margin amount would help limit FICC's exposure in a member default scenario. The proposal would generally provide FICC with additional resources to manage potential losses arising out of a member default. Such an increase in FICC's available financial resources would decrease the likelihood that losses arising out of a member default would exceed FICC's prefunded resources and threaten the safety and soundness of FICC's ongoing operations. Accordingly, the Commission believes that the proposal is also consistent with promoting safety and soundness at FICC.

2. Reducing Systemic Risks and Supporting the Stability of the Broader Financial System

The Commission believes that the proposed minimum margin amount is consistent with reducing systemic risks and supporting the stability of the broader financial system. As discussed above, FICC would access its Clearing Fund should a defaulted member's own margin be insufficient to satisfy losses caused by the liquidation of the member's portfolio. FICC proposes to add the minimum margin amount calculation to its margin methodology to collect additional margin from members to cover such costs, and thereby better manage the potential costs of liquidating a defaulted member's portfolio. This could reduce the possibility that FICC would need to mutualize among the non-defaulting members a loss arising out of the close-out process. Reducing the potential for loss mutualization could, in turn, reduce the potential resultant effects on non-defaulting members, their customers, and the broader market arising out of a member default. Accordingly, the Commission believes that adoption of the proposed minimum margin amount by FICC is consistent with the reduction of systemic risk and supporting the stability of the broader financial system.

One commenter argues that the proposed minimum margin amount is not necessary because despite FICC's March-April 2020 backtesting deficiencies, there were no failures that caused broader systemic problems.[31] Another commenter argues that the proposed minimum margin amount is not necessary because mid-sized broker/dealers do not present significant risks to the broader financial system.[32] The Commission disagrees with these comments, as they do not take into account FICC's regulatory requirements with respect to maintaining sufficient financial resources. As discussed more fully below, the standard under Rule 17Ad–22(e)(4) is not merely for FICC to maintain sufficient financial resources to avoid failures or systemic issues, but to cover its credit exposure to each participant fully with a high degree of confidence.[33] During periods of extreme market volatility, FICC has demonstrated that adding the minimum margin amount to its margin methodology would better enable FICC to manage its credit exposures to members by assessing appropriate margin charges. The Commission has reviewed and analyzed FICC's backtesting data, and agrees that the data demonstrate that the minimum margin amount would result in better backtesting coverage and, therefore, less credit exposure of FICC to its members. Accordingly, the Commission believes that the proposed minimum margin amount would enable FICC to better manage its credit risks resulting from periods of extreme market volatility. Morevoer, as discussed here, the proposal should help FICC to contain the effects of a member default from spreading to other members and more broadly to other market participants, consistent with the objectives of reducing systemic risks and supporting the stability of the broader financial system.

For the reasons stated above, the Commission believes the changes proposed in the Advance Notice are consistent with Section 805(b) of the Clearing Supervision Act.[34]

*B. Consistency With Rule 17Ad–22(e)(4)(i)*

Rule 17Ad–22(e)(4)(i) requires that FICC 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 sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence.[35]

Several commenters question whether FICC has adequately demonstrated that the proposal in the Advance Notice is consistent with Rule 17Ad–22(e)(4)(i) under the Act, arguing that there are more effective methods that FICC could use to mitigate the relevant risks. Three commenters argue that the model-based calculation is well-suited to address FICC's credit risk in volatile market conditions, and instead of adding the minimum margin amount to its margin methodology, FICC should enhance this calculation to address periods of extreme market volatility such as occurred in March and April 2020.[36]

In response to these comments, FICC explains that enhancing the model-based calculation would not be an effective approach towards mitigating the risk resulting from periods of extreme market volatility. Although the model-based calculation takes into account risk factors typical to TBAs, the extreme market volatility of March and April 2020 was caused by other factors (*e.g.,* changes in the Federal Reserve purchase program) affecting the TBA markets, yet such factors are not accounted for in the model-based calculation.[37] To further demonstrate why the minimum margin amount is necessary, FICC relies upon the results of recent backtesting analyses demonstrating that its existing VaR Charge calculations did not respond effectively to the March and April 2020 levels of market volatility and economic uncertainty such that FICC's margin collections during that period did not meet its 99 percent confidence level.[38]

The Commission believes that the proposal in the Advance Notice is consistent with Rule 17Ad–22(e)(4)(i) under the Exchange Act.[39] As described above, FICC's current VaR Charge calculations resulted in margin amounts that were not sufficient to mitigate FICC's credit exposure to its members' portfolios at FICC's targeted confidence level during periods of extreme market volatility, particularly when TBA price changes significantly exceeded those implied by the VaR model risk factors.

[31] *See* SIFMA Letter I at 2.

[32] *See* IDTA/MBA Letter I at 3.

[33] 17 CFR 240.17Ad–22(e)(4)(i).

[34] 12 U.S.C. 5464(b).

[35] 17 CFR 240.17Ad–22(e)(4)(i).

[36] *See* IDTA/MBA Letter I at 4–5; ASA Letter at 1; SIFMA Letter I at 2–3; SIFMA Letter II at 1–2.

[37] *See* FICC Letter at 2–3.

[38] *See* FICC Letter at 3.

[39] 17 CFR 240.17Ad–22(e)(4)(i).

Adding the minimum margin amount calculation to its margin methodology should better enable FICC to collect margin amounts that are sufficient to mitigate FICC's credit exposure to its members' portfolios.

In reaching this conclusion, the Commission thoroughly reviewed and analyzed the (1) Advance Notice, including the supporting exhibits that provided confidential information on the calculation of the proposed minimum margin amount, impact analyses (including detailed information regarding the impact of the proposed change on the portfolio of each FICC member over various time periods), and backtesting coverage results, (2) comments received, and (3) the Comission's own understanding of the performance of the current margin methodology, with which the Commission has experience from its general supervision of FICC, compared to the proposed margin methodology.[40] Specifically, as discussed above, the Commission has considered the results of FICC's backtesting coverage analyses, which indicate that the current margin methodology results in backtesting coverage that does not meet FICC's targeted confidence level. The analyses also indicate that the minimum margin amount would result in improved backtesting coverage towards meeting FICC's targeted coverage level. FICC's backtesting data shows that if the minimum margin amount had been in place, overall margin backtesting coverage (based on 12-month trailing backtesting) would have increased from approximately 99.3% to 99.6% through January 31, 2020 and approximately 97.3% to 98.5% through June 30, 2020.[41] Therefore, the proposal would provide FICC with a more precise margin calculation, thereby enabling FICC to manage its credit exposures to members by maintaining sufficient financial resources to cover such exposures fully with a high degree of confidence.

In response to the comments regarding enhancing the model-based calculation instead of adding the minimum margin amount, the Commission believes that FICC's model-based calculation takes into account risk factors that are typical TBA attributes, whereas the extreme market volatility of March and April 2020 was caused by other external factors that are less subject to modeling. Thus, the commenters' preferred approach is not a viable alternative that would allow for consideration of such factors.[42]

Accordingly, for the reasons discussed above, the Commission believes that the proposed minimum margin amount is reasonably designed to enable FICC to effectively identify, measure, monitor, and manage its credit exposure to members, consistent with Rule 17Ad–22(e)(4)(i).[43]

*C. Consistency With Rules 17Ad–22(e)(6)(i) and (iii)*

Rules 17Ad–22(e)(6)(i) and (iii) require that FICC establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market, and calculates margin sufficient to cover its potential future exposure to participants.[44]

One commenter suggests that the minimum margin amount would be inefficient and ineffective at collecting margin amounts commensurate with the risks presented by the securities in member portfolios.[45] Several commenters argue that the proposed minimum margin amount calculation would produce sudden and persistent spikes in margin requirements.[46] One commenter argues that the minimum margin amount would effectively replace FICC's existing model-based calculation with one likely to produce procyclical results by increasing margin requirements at times of increased market volatility.[47] One commenter suggests the March–April 2020 market volatility was so unique that FICC need not adjust its margin methodology to account for a future similar event.[48]

In addition, one commenter argues that the proposed minimum margin amount is inconsistent with Rule 17Ad–22(e)(6)(i) because the minimum margin amount calculation is not reasonably designed to mitigate future risk due to its reliance on historical price movements that will not generate margin requirements that equate to future protections against market volatility.[49] Two commenters argue that the proposed minimum margin amount calculation is not reasonably designed to mitigate future risks because the calculation relies on historical price movements, which will not necessarily generate margin amounts that will protect against future periods of market volatility.[50] One commenter argues that the MMA is not necessary despite the March and April 2020 backtesting deficiencies because there were no failures or other events that caused systemic issues.[51]

Several commenters speculate that since the minimum margin amount is typically larger than the model-based calculation, the minimum margin amount will likely become the predominant calculation for determining a member's VaR Charge.[52] One commenter argues that instead of the minimum margin amount, FICC should consider adding concentration charges to its margin methodology to address the relevant risks.[53]

In response, FICC states that any increased margin requirements resulting from the proposed minimum margin amount during periods of extreme market volatility would appropriately reflect the relevant risks presented to FICC by member portfolios holding large TBA positions.[54] FICC also states that the minimum margin amount's reliance on observed price volatility with a shorter lookback period will provide margin that responds quicker during market volatility to limit FICC's exposures.[55] FICC also notes that the margin increases that the minimum margin amount would have imposed following the March–April 2020 market volatility would not have persisted at such high levels indefinitely.[56]

In addition, regarding whether the minimum margin amount will likely become the predominant calculation for determining a member's VaR Charge,

[40] In addition, because the proposals contained in the Advance Notice and the Proposed Rule Change are the same, all information submitted by FICC was considered regardless of whether the information submitted with respect to the Advance Notice or the Proposed Rule Change. *See supra* note 9.

[41] *See* Notice of Filing, *supra* note 4 at 588.

[42] This Commission also notes that Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if the change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. 15 U.S.C. 78s(b)(2)(C). Therefore, the Commission is required to approve the proposal unless the existence of alternatives identified by commenters renders the proposal inconsistent with the Act. The Commission does not believe this threshold has been met.

[43] 17 CFR 240.17Ad–22(e)(4)(i).

[44] 17 CFR 240.17Ad–22(e)(6)(i) and (iii).

[45] *See id.*

[46] *See* IDTA/MBA Letter I at 5; ASA Letter at 2; SIFMA Letter I at 3–4.

[47] *See* IDTA/MBA Letter I at 5.

[48] *See* SIFMA Letter I at 3.

[49] *See* IDTA/MBA Letter I at 4.

[50] *See* IDTA/MBA Letter I at 5; SIFMA Letter I at 2.

[51] *See* SIFMA Letter I at 2.

[52] *See* IDTA/MBA Letter I at 4–5; ASA Letter at 1; SIFMA Letter I at 2–3.

[53] *See* IDTA/MBA Letter I at 5.

[54] *See* FICC Letter at 5–6.

[55] *See id.*

[56] *See id.*

FICC states that as the period of extreme market volatility stabilized and the model-based calculation recalibrated to current market conditions, the average daily VaR Charge increase decreased from $2.2 billion (*i.e.,* 42%) to $838 million (*i.e.,* 7%) during the fourth quarter of 2020.[57] Regarding concentration charges, FICC states that concentration charges and the minimum margin amount address separate and distinct types of risk.[58] Whereas the minimum margin amount is designed to cover the risk of market price volatility, concentration charges (*e.g.,* FICC's recently approved Margin Liquidity Adjustment Charge [59]) are designed to mitigate the risk to FICC of incurring additional market impact cost from liquidating a directionally concentrated portfolio.[60]

The Commission believes that the proposal is consistent with Rule 17Ad–22(e)(6)(i). Implementing the proposed minimum margin amount would result in margin requirements that reflect the risks such holdings present to FICC better than FICC's current margin methodology. In reaching this conclusion and considering the comments above, the Commission thoroughly reviewed and analyzed the (1) Advance Notice, including the supporting exhibits that provided confidential information on the calculation of the proposed minimum margin amount, impact analyses, and backtesting coverage results, (2) comments received, and (3) the Commission's own understanding of the performance of the current margin methodology, with which the Commission has experience from its general supervision of FICC, compared to the proposed margin methodology. Based on its review and analysis of these materials, including the effect that the minimum margin amount would have on FICC's backtesting coverage, the Commission believes that the proposed minimum margin amount is designed to consider, and collect margin commensurate with, the market risk presented by member portfolios holding TBA positions, specifically during periods of market volatility such as what occurred in March and April 2020. For the same reasons, the Commission disagrees with the comments suggesting that the minimum margin amount calculation is not designed to effectively and efficiently collect margin sufficient to mitigate the risks presented by the securities.

In response to comments regarding the sudden and persistent increases in margin that could arise from the minimum margin amount, the Commission acknowledges that, for some member portfolios in certain market conditions, application of the minimum margin amount calculation would result in an increase in the member's margin requirement based on the potential exposures arising from the TBA positions. The Commission notes that, by design, the minimum margin amount should respond more quickly to heightened market volatility because of its use of historical price data over a relatively short lookback period, as opposed to the model-based calculation which relies on risk factors and uses a longer lookback period.

The Commission also observes, however, based on its review and analysis of FICC's confidential data and analyses, that the increase in margin requirements generated by the minimum margin amount as compared to the other calculations would generally only apply during periods of high market volatility and for a time period thereafter.[61] The frequency with which the minimum margin amount would constitute a majority of members' margin requirements decreases as markets become less volatile, and therefore, is not expected to persist indefinitely.[62] The Commission believes that including the minimum margin amount as a potential method of determining a member's margin requirement is appropriate, in light of the potential exposures that could arise in a time of heightened market volatility and the need for FICC to cover those exposures. Therefore, the Commission believes that the proposal would provide FICC with a margin calculation better designed to enable FICC to cover its credit exposures to its members by enhancing FICC's risk-based margin system to produce margin levels commensurate with, the risks and particular attributes of TBAs during periods of extreme market volatility.

In response to the comments regarding the potential procyclical nature of the minimum margin amount calculation and whether it is appropriate for the margin methodology to take into account such extreme market events, the Commission notes that as a general matter, margin floors generally operate to reduce procyclicality by preventing margin levels from falling too low. Moreover, despite the commenters' procyclicality concerns, the Commission understands that the purpose of the minimum margin amount is to ensure that FICC collects sufficient margin in times of heightened market volatility, which means that FICC would, by design, collect additional margin at such times if the minimum margin amount applies. The Commission believes that, because heightened market volatility may lead to increased credit exposure for FICC, it is reasonable for FICC's margin methodology to collect additional margin at such times and to be responsive to market activity of this nature.

In response to the comment that the proposed minimum margin amount is not necessary because the March and April 2020 market volatility did not cause the failure of FICC members or otherwise cause broader systemic problems, the Commission disagrees. Similar to the Commission's analysis above in Section II.B., the relevant standard is not merely for FICC to maintain sufficient financial resources to avoid failures or systemic issues, but for FICC to cover its credit exposures to members with a risk-based margin system that produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market.[63] During periods of extreme market volatility, FICC has demonstrated that adding the minimum margin amount to its margin methodology would better enable FICC to manage its credit exposures to members by producing margin charges commensurate with the applicable risks. The Commission has reviewed and analyzed FICC's backtesting data, and agrees that the data demonstrate that the minimum margin amount would result in better backtesting coverage and, therefore, less credit exposure of FICC to its members. Accordingly, the Commission believes that the proposed minimum margin amount would enable FICC to better manage its credit risks resulting from periods of extreme market volatility.

In response to the comments regarding the minimum margin amount calculation's reliance on historical price movements, the Commission does not agree that Rules 17Ad–22(e)(6)(i) and (iii) preclude FICC from implementing a margin methodology that relies, at least in part, on historical price movements or that FICC's margin methodology must

[57] *See* FICC Letter at 5.

[58] *See* FICC Letter at 7–8.

[59] *See* Securities Exchange Act Release No. 90182 (October 14, 2020), 85 FR 66630 (October 20, 2020) (SR–FICC–2020–009).

[60] *See* FICC Letter at 7–8.

[61] FICC provided this data as part of its response to the Commission's Request for Additional Information in connection with the Advance Notice. Pursuant to 17 CFR 240.24b–2, FICC requested confidential treatment of its RFI response. *See also* FICC Letter at 5.

[62] *See* FICC Letter at 5.

[63] 17 CFR 240.17Ad–22(e)(6)(i).

generate margin requirements that ''equate to future protections against market volatility.'' FICC's credit exposures are reasonably measured both by events that have actually happened as well as events that could potentially occur in the future. For this reason, a risk-based margin system is necessary for FICC to cover its potential future exposure to members.[64] Potential future exposure is, in turn, defined as the maximum exposure estimated to occur at a future point in time with an established single-tailed confidence level of at least 99 percent with respect to the estimated distribution of future exposure.[65] Thus, to be consistent with its regulatory requirements, FICC must consider potential future exposure, which includes, among other things, losses associated with the liquidation of a defaulted member's portfolio.

In response to the comments regarding enhancing the model-based calculation instead of adding the minimum margin amount, the Commission believes that, as FICC stated in its response, the inputs to FICC's model-based calculation include risk factors that are typical TBA attributes, whereas the extreme market volatility of March and April 2020, which affected the TBA markets, was caused by other external factors that are less subject to modeling. Accordingly, the Commission believes that FICC would more effectively cover its exposure during such periods by including the minimum margin amount as an alternative margin component based the price volatility in each member's portfolio using observable TBA benchmark prices, using a relatively short lookback period.[66]

In response to the comments regarding whether the minimum margin amount will likely become the predominant calculation for determining a member's VaR Charge, the Commission disagrees. For example, the average daily VaR Charge increase from February 3, 2020 through June 30, 2020 would have been approximately $2.2 billion or 42%, but as the model-based calculation took into account the current market conditions, the average daily increase during Q4 of 2020 would have been approximately $838 million or 7%.[67]

Finally, in response to the comments regarding concentration charges, the Division states that there is a distinction between concentration charges and the VaR Charge in that they are generally designed to mitigate different risks. Whereas the VaR Charge is designed to cover the risk of market price volatility, concentration charges are typically designed to mitigate the risk of incurring additional market impact cost from liquidating a directionally concentrated portfolio.[68]

Accordingly, the Commission believes that adding the minimum margin amount to FICC's margin methodology would be consistent with Rules 17Ad–22(e)(6)(i) and (iii) because this new margin calculation should better enable FICC to establish a risk-based margin system that considers and produces relevant margin levels commensurate with the risks (including potential future exposure) associated with liquidating member portfolios in a default scenario, including volatility in the TBA market.[69]

## III. Conclusion

*It is therefore noticed,* pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission *does not object* to Advance Notice (SR–FICC–2020–804) and that FICC is *authorized* to implement the proposed change as of the date of this notice or the date of an order by the Commission approving proposed rule change SR–FICC–2020–017, whichever is later.

By the Commission.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12598 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

[64] *See* 17 CFR 240.17Ad–22(e)(6)(iii) (requiring a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default).

[65] 17 CFR 240.17Ad–22(a)(13).

[66] *See* FICC Letter at 3.

[67] *See* FICC Letter at 5. The Commission's conclusion is also based upon information that FICC submitted confidentially regarding member-level impact of the proposal from February through December 2020.

[68] *See* Securities Exchange Act Release No. 34–90182 (October 14, 2020), 85 FR 66630 (October 20, 2020).

[69] 17 CFR 240.17Ad–22(e)(6)(i) and (iii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92147; File No. SR–CboeEDGX–2021–027]**

## Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data

June 10, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2021, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to introduce a new data product to be known as Short Sale Volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt Rule 13.8(g) to provide for a new data product to be known as Short Sale Volume data. The proposal introduces Short Sale Volume data that will be available for purchase to EDGX Members (''Members'') and non-Members.[3] The proposal is similar to products offered by the New York Stock Exchange LLC (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'') which provide short sale volume information. The Exchange also proposes to change the name of Rule 13.8 to ''Data Products'' and add a preamble to Rule 13.8 to conform to Cboe BZX Exchange, Inc. (''BZX'') and Cboe BYX Exchange, Inc. (''BYX'') Rule 11.22.

A description of each market data product offered by the Exchange is described in Exchange Rule 13.8. The Exchange proposes to adopt Rule 13.8(g) to introduce and add a description of the Short Sale Volume data product. The Exchange proposes to describe the Short Sale Volume data as ''a data product that summarizes short sale volume (shares traded on EDGX). Short Sale Volume data is available on an end-of-day and intraday basis.''

The Exchange proposes to offer Short Sale Volume data on an end-of-day and intraday basis which will be available for purchase by Members and non-Members. Specifically, the Exchange proposes to offer an end-of-day short sale volume report that includes the date, session (*i.e.,* Pre-Opening Session,[4] Regular Trading Hours,[5] or Post-Closing Session [6]),[7] symbol, trade count, buy and sell volume, type of sale (*i.e.,* sell, sell short, or sell short exempt), capacity (*i.e.,* principal, agent, or riskless principal), and retail order indicator. The end-of-day Short Sale Volume data would include same day corrections to short sale volume.

The Exchange also proposes to offer Short Sale Volume data on an intraday basis that will provide the same information to that of end-of-day Short Sale Volume data, but will be produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10 minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured through 9:50 a.m., and so forth. Each update will represent combined data captured from the current ''snapshot'' and all previous ''snapshots'' and thus will provide short sale volume data on an aggregate basis. The intraday Short Sale Volume data will not include same day corrections, as proposed in the end-of-day data. The proposed data products provide proprietary EDGX trade data and do not include trade data from any other exchange.

The proposed end-of-day and intraday Short Sale Volume data will be available for purchase on a monthly subscription basis. Subscribers to the end-of-day Short Sale Volume data will receive a daily end-of-day file. Similarly, subscribers to the intraday Short Sale Volume data will receive data which will be produced and updated every 10 minutes as described above. Additionally, end-of-day and intraday Short Sale Volume data will be available on a historical basis for purchase as far back as January 3, 2017.[8] The subscription files and historical ad hoc files will include the same data points. Further, the Exchange will establish a monthly subscriber fee and historical ad hoc fee for the Short Sale Volume data by way of a separate proposed rule change, which the Exchange will submit in connection with the launch of the Short Sale Volume data product.

The Exchange anticipates a wide variety of market participants to purchase Short Sale Volume data, including, but not limited to active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize Short Sale Volume data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange believes the proposed Short Sale Volume data products may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, Short Sale Volume data may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer similar data products.[9]

Based on the above proposal, the Exchange also proposes to amend the name of Rule 13.8 from ''EDGX Book Feeds'' to ''Data Products''. Such an amendment would accurately describe the Rule as the proposed product is not a book feed, but rather a data product. Further, the existing data feeds identified in Rule 13.8 are also data products. The Exchange also proposes to add the following preamble to Rule 13.8: ''The Exchange offers the following data products free of charge, unless otherwise noted in the Exchange's fee schedule''. The proposed language conforms to rule text provided in BZX and BYX Rules 13.8.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique

[3] The Exchange intends to submit a separate rule filing to establish fees for Short Sale Volume data.

[4] *See* Exchange Rule 1.5(s).

[5] *See* Exchange Rule 1.5(y).

[6] *See* Exchange Rule 1.5(r).

[7] Session information will only be available in data after July 31, 2020.

[8] Historical data will be available on an ad hoc basis.

[9] *See* the Nasdaq Daily Short Sale Volume files at *https://nasdaqtrader.com/Trader.aspx?id=shortsale. See also* the NYSE TAQ Group Short Sales and Short Volume at *https://www.nyse.com/market-data/historical/taq-nyse-group-short-sales.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Short Sale Volume data would further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Short Sale Volume data. The proposed rule change would benefit investors by providing access to the Short Sale Volume data, which may promote better informed trading. Particularly, information regarding Short Sale Volume may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security.

Moreover, other exchanges offer similar data products.[13] Nasdaq offers a daily short sale volume report and NYSE offers the TAQ group short sales and short volume product, which provide similar information to that included in the proposed end-of-day Short Sale Volume data product. The Nasdaq daily short sale volume file reflects the aggregate number of shares executed on Nasdaq, BX and PSX during regular trading hours.[14] Specifically, the Nasdaq daily short sale volume provides the following information: Date, symbol, volume during regular trading hours, and CTA market identifier. The NYSE daily short volume file reflects a summary of short sale volume for securities traded on NYSE, NYSE American, NYSE Arca, NYSE National, and NYSE Chicago. Specifically, the NYSE short sales and short volume product provides the following information: Date, symbol, short exempt volume, short volume, total volume of the short sale transaction, and market identifier. NYSE and Nasdaq also offer monthly short sale volume reports which offer different information than that provided in their daily short sale reports.

The Exchange proposes to include different and additional data in the proposed products. Specifically, the Exchange proposes to include session information, trade count, capacity, and a retail order indicator in the proposed data product which are not currently provided in either the NYSE or Nasdaq short sale volume product offerings. Further, the Exchange proposes to offer an intraday Short Sale Volume data product, which is not offered by other exchanges. The Exchange believes the additional data points and the intraday data will benefit market participants because they will provide visibility into market activity that is not currently available. Further it will allow market participants to better understand the changing risk environment on a daily and intraday basis. Therefore, the Exchange believes it is reasonable to include such data in the proposed products.

The Exchange believes the proposal to change the name of Rule 13.8 to ''Data Products'' is reasonable because the proposed Short Sale Volume report is not a book feed, and thus ''EDGX Book Feeds'' does not accurately describe all of the paragraphs under Rule 13.8. The Exchange also believes the proposal to add the preamble to Rule 13.8 is reasonable because it will eliminate potential investor confusion as to which data products the Exchange charges a fee. Furthermore, both of the aforementioned changes to Rule 13.8 are identical to the text of BZX and BYX Rule 11.22.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer data products similar to those offered by other competitor equities exchanges.[15] The Exchange is proposing to introduce Short Sale Volume data in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, at least two other U.S. equity exchanges offer a market data product that is similar to the proposed Short Sale Volume data.[16] As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2021–027 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–CboeEDGX–2021–027. 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

[13] *See* Supra note 9.

[14] *See https://nasdaqtrader.com/Trader.aspx?id=shortsale.*

[15] *See* Supra note 9.

[16] *Id.*

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–CboeEDGX–2021–027, and should be submitted on or before July 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12590 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92148; File No. SR–CboeBZX–2021–042]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data

June 10, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2021, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to introduce a new data product to be known as Short Sale Volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 11.22(f) to provide for a new data product to be known as Short Sale Volume data. The proposal introduces Short Sale Volume data that will be available for purchase to BZX Members (''Members'') and non-Members.[3] The proposal is similar to products offered by the New York Stock Exchange LLC (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'') which provide short sale volume information.

A description of each market data product offered by the Exchange is described in Exchange Rule 11.22. The Exchange proposes to amend Rule 11.22(f) to introduce and add a description of the Short Sale Volume data product. The Exchange proposes to describe the Short Sale Volume data as ''a data product that summarizes short sale volume (shares traded on BZX). Short Sale Volume data is available on an end-of-day and intraday basis.''

The Exchange proposes to offer Short Sale Volume data on an end-of-day and intraday basis which will be available for purchase by Members and non-Members. Specifically, the Exchange proposes to offer an end-of-day short sale volume report that includes the date, session (*i.e.,* Pre-Opening Session,[4] Regular Trading Hours,[5] or After Hours Trading Session [6]),[7] symbol, trade count, buy and sell volume, type of sale (*i.e.,* sell, sell short, or sell short exempt), capacity (*i.e.,* principal, agent, or riskless principal), and retail order indicator. The end-of-day Short Sale Volume data would include same day corrections to short sale volume.

The Exchange also proposes to offer Short Sale Volume data on an intraday basis that will provide the same information to that of end-of-day Short Sale Volume data, but will be produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured through 9:50 a.m., and so forth. Each update will represent combined data captured from the current ''snapshot'' and all previous ''snapshots'' and thus will provide short sale volume data on an aggregate basis. The intraday Short Sale Volume data will not include same day corrections, as proposed in the end-of-day data. The proposed data products provide proprietary BZX trade data and do not include trade data from any other exchange.

The proposed end-of-day and intraday Short Sale Volume data will be available for purchase on a monthly subscription basis. Subscribers to the end-of-day Short Sale Volume data will receive a daily end-of-day file. Similarly, subscribers to the intraday Short Sale Volume data will receive data which will be produced and updated every 10 minutes as described above. Additionally, end-of-day and intraday Short Sale Volume data will be available on a historical basis for purchase as far back as January 3, 2017.[8] The subscription files and historical ad hoc files will include the same data points. Further, the Exchange will establish a monthly subscriber fee and historical ad hoc fee for the Short Sale Volume data by way of a separate proposed rule change, which the Exchange will submit

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange intends to submit a separate rule filing to establish fees for Short Sale Volume data.

[4] *See* Exchange Rule 1.5(r).

[5] *See* Exchange Rule 1.5(w).

[6] *See* Exchange Rule 1.5(c).

[7] Session information will only be available in data after July 31, 2020.

[8] Historical data will be available on an ad hoc basis.

in connection with the launch of the Short Sale Volume data product.

The Exchange anticipates a wide variety of market participants to purchase Short Sale Volume data, including, but not limited to active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize Short Sale Volume data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange believes the proposed Short Sale Volume data products may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, Short Sale Volume data may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer similar data products.[9]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Short Sale Volume data would further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Short Sale Volume data. The proposed rule change would benefit investors by providing access to the Short Sale Volume data, which may promote better informed trading. Particularly, information regarding Short Sale Volume may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security.

Moreover, other exchanges offer similar data products.[13] Nasdaq offers a daily short sale volume report and NYSE offers the TAQ group short sales and short volume product, which provide similar information to that included in the proposed end-of-day Short Sale Volume data product. The Nasdaq daily short sale volume file reflects the aggregate number of shares executed on Nasdaq, BX and PSX during regular trading hours.[14] Specifically, the Nasdaq daily short sale volume provides the following information: Date, symbol, volume during regular trading hours, and CTA market identifier. The NYSE daily short volume file reflects a summary of short sale volume for securities traded on NYSE, NYSE American, NYSE Arca, NYSE National, and NYSE Chicago. Specifically, the NYSE short sales and short volume product provides the following information: Date, symbol, short exempt volume, short volume, total volume of the short sale transaction, and market identifier. NYSE and Nasdaq also offer monthly short sale volume reports which offer different information than that provided in their daily short sale reports.

The Exchange proposes to include different and additional data in the proposed products. Specifically, the Exchange proposes to include session information, trade count, capacity, and a retail order indicator in the proposed data product which are not currently provided in either the NYSE or Nasdaq short sale volume product offerings. Further, the Exchange proposes to offer an intraday Short Sale Volume data product, which is not offered by other exchanges. The Exchange believes the additional data points and the intraday data will benefit market participants because they will provide visibility into market activity that is not currently available. Further it will allow market participants to better understand the changing risk environment on a daily and intraday basis. Therefore, the Exchange believes it is reasonable to include such data in the proposed products.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer data products similar to those offered by other competitor equities exchanges.[15] The Exchange is proposing to introduce Short Sale Volume data in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, at least two other U.S. equity exchanges offer a market data product that is similar to the proposed Short Sale Volume data.[16] As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*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**

Within 45 days of the date of publication of this notice in the **Federal**

[9] *See* the Nasdaq Daily Short Sale Volume files at *https://nasdaqtrader.com/Trader.aspx?id=shortsale. See also* the NYSE TAQ Group Short Sales and Short Volume at *https://www.nyse.com/market-data/historical/taq-nyse-group-short-sales.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] *See* Supra note 9.

[14] *See https://nasdaqtrader.com/Trader.aspx?id=shortsale.*

[15] *See* Supra note 9.

[16] *Id.*

**Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeBZX–2021–042 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2021–042. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2021–042, and should be submitted on or before July 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12591 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92150; File No. SR–MEMX–2021–07]**

## Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule

June 10, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2021, MEMX LLC (''MEMX'' 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 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members[3] (the ''Fee Schedule'') pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on June 1, 2021. The text of the proposed rule change is provided in Exhibit 5.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to (i) adopt a new pricing incentive (the ''Displayed Liquidity Incentive'' or ''DLI'') designed to improve market quality on the Exchange in certain specific securities and more generally in the form of an enhanced rebate for executions of displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange (such orders, ''Added Displayed Volume'') for Members that meet certain minimum quoting requirements across a specified number of securities, as further described below; (ii) introduce a tiered pricing structure applicable to the rebates provided for executions of Added Displayed Volume; (iii) adopt an enhanced rebate for executions of Pegged Orders[4] with a Midpoint Peg[5] instruction in securities priced at or above $1.00 per share (such orders, ''Midpoint Peg Orders'') that add liquidity to the Exchange; (iv) increase the standard fee for executions of orders in securities priced at or above $1.00 per share that remove liquidity from the Exchange (such orders, ''Removed Volume''); and (v) reduce the standard rebate for executions of Added Displayed Volume.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1.5(p).

[4] Pegged Orders are described in Exchange Rules 11.6(h) and 11.8(c) and generally defined as an order that is pegged to a reference price and automatically re-prices in response to changes in the national best bid and/or offer (''NBBO'').

[5] A Midpoint Peg instruction is an instruction that may be placed on a Pegged Order that instructs the Exchange to peg the order to midpoint of the NBBO. *See* Exchange Rule 11.6(h)(2).

registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading.[6] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 2.4% of the overall market share.[7]

Adoption of Displayed Liquidity Incentive

The Exchange proposes to adopt a new pricing incentive, referred to by the Exchange as the ''Displayed Liquidity Incentive'' or ''DLI'', in the form of an enhanced rebate for executions of Added Displayed Volume for Members that qualify for the DLI by meeting certain minimum quoting requirements across a specified number of securities, as further described below. The proposed DLI is designed to encourage Members to improve market quality on the Exchange in certain specific securities and more generally. As proposed, a Member will qualify for the DLI, and thus receive the proposed enhanced rebate for executions of Added Displayed Volume described below, if the Member's NBBO Time [8] is at least 25% in an average of at least 250 securities, at least 75 of which must be DLI Target Securities,[9] per trading day during the month. Under this proposal, the Exchange will determine on a daily basis the number of securities in which each of a Member's MPIDs meets the 25% NBBO Time requirement (the ''quoting requirement'') for that day. The Exchange will then aggregate the number of securities in which each of a Member's MPIDs meets the quoting requirement to determine the total number of securities in which such Member meets the quoting requirement for that day.[10] However, a single security in which more than one of such Member's MPIDs meets the quoting requirement for that day will only be counted once for this purpose.[11] Additionally, as proposed, the quoting requirement with respect to a security must be met by a single MPID achieving the requisite NBBO Time for that day, and the NBBO Time of multiple MPIDs will not be aggregated to determine if the Member has met the quoting requirement in that security.[12]

As noted above, to qualify for the DLI, a Member must meet the quoting requirement in an average of at least 250 securities traded on the Exchange (the ''250 securities requirement''), at least 75 of which must be DLI Target Securities (the ''75 DLI Target Securities requirement''), per trading day during the month. Each of the 250 securities requirement and the 75 DLI Target Securities requirement is referred to under this proposal as a ''securities requirement.'' The proposed DLI is designed to enhance market quality both in a broad manner with respect to all securities traded on the Exchange, through the 250 securities requirement, and in a targeted manner with respect to certain designated securities in which the Exchange specifically seeks to inject additional quoting competition (*i.e.,* the DLI Target Securities), through the 75 DLI Target Securities requirement. The number of DLI Target Securities in which a Member meets the quoting requirement will be counted toward both the 75 DLI Target Securities requirement and the 250 securities requirement. In order to determine whether a Member meets the applicable securities requirements during a month, the average number of securities in which such Member meets the quoting requirement per trading day during the month will be calculated by summing the number of securities in which each of such Member's MPIDs met the quoting requirement for each trading day during the month then dividing the resulting sum by the total number of trading days in the month.[13] The Exchange proposes to add notes to the Fee Schedule describing the criteria for determining whether a Member qualifies for the DLI and the related calculation methodologies described above.

In addition, the Exchange will exclude for purposes of determining qualification for the Displayed Liquidity Incentive: (1) Any trading day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption Days''); and (2) the day that Russell Investments reconstitutes its family of indexes (the ''Russell Reconstitution Day''), which occurs annually on the last Friday in June. The Exchange will exclude Exchange System Disruption Days and the Russell Reconstitution Day when determining both the numerator (*i.e.,* the number of securities in which a Member's MPIDs met the quoting requirement for each trading day during the month) and the denominator (*i.e.,* the total number of trading days in the month) for purposes of calculating the average number of securities in which such Member meets the quoting

[6] Market share percentage calculated as of May 27, 2021. The Exchange receives and processes data made available through consolidated data feeds (*i.e.,* CTS and UTDF).

[7] *Id.*

[8] As proposed, the term ''NBBO Time'' means the aggregate of the percentage of time during regular trading hours during which one of a Member's market participant identifiers (''MPIDs'') has a displayed order of at least one round lot at the national best bid (''NBB'') or the national best offer (''NBO''). If an MPID has a displayed order of at least one round lot at both the NBB and the NBO, the quoting activity on each side will be aggregated and counted toward the NBBO Time. As an example, where a Member's MPID has a displayed order of at least one round lot at the NBB for 20% of the time during regular trading hours and a displayed order of at least one round lot at the NBO for 10% of the time during regular trading hours for a security, the Member's NBBO Time with respect to that MPID for that security would be 30%. Thus, it is possible for a single MPID to have an NBBO Time for a security of up to 200% for a particular day under this proposal. As proposed, the term ''regular trading hours'' refers to the time between 9:30 a.m. and 4:00 p.m. Eastern Time, or such shorter period as may be designated by the Exchange on a day when the securities markets close early.

[9] As proposed, the term ''DLI Target Securities'' means a list of securities designated as such, the universe of which will be determined by the Exchange and published on the Exchange's website. The Exchange anticipates that the initial DLI Target Securities list will include between 275 and 300 securities. The DLI Target Securities list will always include at least 75 securities and may be periodically updated by the Exchange, provided that the Exchange will not remove a security from the DLI Target Securities list without at least 30 days' prior notice to Members as published on the Exchange's website (unless the security is no longer eligible for trading on the Exchange).

[10] For example, if a Member has four MPIDs and each MPID has an NBBO Time of 30% in a different security, this will count as four securities in which such Member has met the quoting requirement for that day.

[11] Thus, if a Member has two MPIDs that meet the quoting requirement in the same security for a particular day, this will only count as one security for purposes of determining the total number of securities in which such Member has met the quoting requirement for that day.

[12] As an example, assume that a Member has two MPIDs, and that MPID 1 has an NBBO Time of 15% and MPID 2 has an NBBO Time of 20% in the same security for a particular day. In this event, such Member would not meet the quoting requirement in that security for that day as it does not have an MPID with an NBBO Time of at least 25% in that security for that day. The Exchange notes that The Nasdaq Stock Market LLC (''Nasdaq'') uses this same methodology when calculating the time that a member quotes at the NBBO under its Qualified Market Maker program. *See infra* note 17; *see also* Securities Exchange Act Release No. 77662 (April 20, 2016), 81 FR 24681, 24682 (April 26, 2016) (SR–NASDAQ–2016–051).

[13] As an example, in a month with 20 trading days, if a Member's MPIDs collectively satisfied the quoting requirement in 125 securities (of which 25 were DLI Target Securities) for ten of the trading days in the month, and collectively satisfied the quoting requirement in 375 securities (of which 125 were DLI Target Securities) for the other ten trading days in the month, such Member would meet the quoting requirement in an average of 250 securities (*i.e.,* $((125 \times 10) + (375 \times 10))/20$), inclusive of an average of 75 DLI Target Securities (*i.e.,* $((25 \times 10) + (125 \times 10))/20$), per trading day during the month. Therefore, such Member would meet both of the applicable securities requirements during the month and would qualify for the DLI for that month under this proposal.

requirement per trading day during the month.

As further detail regarding such proposed exclusions, an Exchange system disruption may occur, for example, where a certain group of securities traded on the Exchange is unavailable for trading due to an Exchange system issue. Similarly, the Exchange may be able to perform certain functions with respect to accepting and processing orders, but may have a failure to another significant process, such as routing to other market centers, that would lead Members that rely on such process to avoid utilizing the Exchange until the Exchange's entire system was operational. The Exchange believes that these types of Exchange system disruptions could preclude Members from participating on the Exchange to the extent that they might have otherwise participated on such days, and thus, the Exchange believes it is appropriate to exclude such days when determining whether a Member meets the applicable securities requirements during a month to avoid penalizing Members that might otherwise have met such requirements. For similar reasons, the Exchange believes it is appropriate to exclude the Russell Reconstitution Day in the same manner, as the Exchange believes that the Russell Reconstitution Day typically has extraordinarily high and abnormally distributed trading volumes, and the Exchange believes this change to normal activity may affect a Member's ability to meet the quoting requirement across various securities on that day. The Exchange notes that the exclusion of Exchange System Disruption Days and the Russell Reconstitution Day is consistent with the methodologies used by other exchanges when calculating certain member trading and other volume metrics for purposes of determining whether members qualify for certain pricing incentives, and the Exchange believes application of this methodology is similarly appropriate for the proposed DLI pricing incentive.[14]

A Member that qualifies for the DLI by meeting the requirements described above during a particular month will receive an enhanced rebate of $0.0036 per share for all executions of Added Displayed Volume (unless a higher rebate applies[15]) during that month.[16] This proposed enhanced rebate is $0.0005 higher than the standard rebate that would otherwise be applicable to such executions, which the Exchange is proposing to reduce from $0.0034 to $0.0031, as further described below. The proposed enhanced rebate will apply to all executions of Added Displayed Volume (other than orders receiving a higher rebate, such as Retail Orders) entered by each MPID of a qualifying Member; thus, if a Member qualifies for the DLI as a result of its quoting activity from one of its MPIDs during a month, the qualifying Member will receive the proposed enhanced rebate of $0.0036 per share for all executions of Added Displayed Volume (unless a higher rebate applies) entered by that MPID as well as those entered by each of its other MPIDs during that month. The Exchange notes that the proposed enhanced rebate will only apply to executions in securities priced at or above $1.00 per share; executions of a qualifying Member's displayed orders that add liquidity to the Exchange in securities priced below $1.00 per share will continue to receive the standard rebate applicable to executions of such orders on the Exchange (*i.e.,* 0.05% of the total dollar value of the transaction).

The Exchange is proposing to provide the enhanced rebate for executions of Added Displayed Volume for qualifying Members as a means of recognizing the value of market participants that consistently quote at the NBBO in a large number of securities, generally, and in the DLI Target Securities, in particular. Even when such market participants are not formally registered as market makers, they risk capital by offering immediately executable liquidity at the price most favorable to market participants on the opposite side of the market. Such activity promotes price discovery and dampens volatility and enhances the attractiveness of the Exchange as a trading venue. Given the proposed requirements to qualify for the DLI, a Member must make a significant contribution to market quality by providing liquidity at the NBBO in a large number of securities, including certain designated securities in which the Exchange specifically seeks to inject additional quoting competition (*i.e.,* the DLI Target Securities), for a significant portion of the day.

A Member that qualifies for the DLI may be, but is not required to be, a registered market maker in any security; thus, qualifying for the DLI does not by itself impose a two-sided or any other quotation obligation or convey any of the benefits associated with being a registered market maker. Qualification for the DLI will, however, reflect the Member's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities, including the DLI Target Securities. Thus, this proposal is designed to attract liquidity both from traditional market makers and from other firms that are willing to commit capital to support liquidity at the NBBO. Through the proposed enhanced rebate for qualifying Members, the Exchange hopes to provide improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO for a large number of securities, generally, including the DLI Target Securities, in particular. In addition, the proposal reflects an effort to use a financial incentive to encourage a wider variety of Members, including Members that may be characterized as high-frequency trading firms, to make positive commitments to promote market quality.

The Exchange notes that the proposed DLI is similar in structure and purpose to pricing programs in place at other exchanges that are designed to enhance market quality by incentivizing members to achieve minimum quoting standards, including minimum quoting at the NBBO in a large number of securities, generally, or certain designated securities, in particular.[17]

[14] *See, e.g.,* the Cboe BZX Exchange, Inc. (''Cboe BZX'') equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*); the Cboe EDGX Exchange, Inc. equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/*).

[15] As described further below, the Exchange is also proposing to specify on the Fee Schedule that the lowest fee/highest rebate will apply if a Member qualifies for multiple fees/rebates with respect to a particular transaction. Retail Orders in securities priced at or above $1.00 per share that are displayed and add liquidity to the Exchange receive a rebate that is higher than the proposed enhanced rebate for Members that qualify for the DLI. Thus, under the Exchange's proposed pricing structure, a Member that qualifies for the DLI would not receive the proposed DLI enhanced rebate for executions of displayed Retail Orders that add liquidity to the Exchange but instead would receive the rebate applicable to executions of liquidity-adding displayed Retail Orders.

[16] This proposed pricing is referred to by the Exchange on the Fee Schedule under the new description ''Added displayed volume, DLI'' with a Fee Code of ''Bq'', ''Dq'' or ''Jq'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members. The Exchange notes that because the determination of whether a Member qualifies for the DLI for a particular month will not be made until after the month-end, the Exchange will provide the Fee Codes otherwise applicable to such transactions (*i.e.,* ''B'', ''D'' or ''J'') on the execution reports provided to Members during the month and will only designate the Fee Codes of ''Bq'', ''Dq'' or ''Jq'' on the monthly invoices, which are provided after such determination has been made.

[17] *See, e.g.,* the Nasdaq equities trading fee schedule on its public website, available at *http://www.nasdaqtrader.com/trader.aspx?id=pricelisttrading2*) and Nasdaq Rule

The Exchange further notes that, like the proposed DLI, these programs include as an incentive the provision of an enhanced rebate for executions of liquidity-adding displayed orders for members that meet the quoting and other requirements of those programs.[18]

In addition to the foregoing changes, the Exchange proposes to add to the Fee Schedule definitions of the terms ''MPID'', ''DLI Target Securities'', ''quoting requirement'', ''regular trading hours'' and ''securities requirement'' that are consistent with the descriptions of those terms set forth above, as such terms are used in the notes describing the calculation methodologies and criteria for determining whether a Member qualifies for the DLI that the Exchange is proposing to add to the Fee Schedule, as described above.

Adoption of Liquidity Provision Tier

The Exchange is also proposing to introduce a tiered pricing structure applicable to the rebates provided for executions of Added Displayed Volume. Specifically, the Exchange proposes to adopt a new volume-based tier, referred to by the Exchange as the ''Liquidity Provision Tier'', in which the Exchange will provide an enhanced rebate for executions of Added Displayed Volume for Members that meet a certain specified volume threshold on the Exchange. Currently, the Exchange provides a standard rebate of $0.0034 per share for executions of Added Displayed Volume, which the Exchange is proposing to reduce to $0.0031, as further described below. The Exchange now proposes to introduce a tiered pricing structure in which it will provide an enhanced rebate of $0.00335 per share for executions of Added Displayed Volume for Members that qualify for the Liquidity Provision Tier by achieving an ADAV [19] of 15,000,000 shares or more.[20] As proposed, ADAV will be calculated on a monthly basis, and Members that qualify for the Liquidity Provision Tier by achieving the specified ADAV threshold in a particular month will receive the proposed enhanced rebate of $0.00335 per share for all executions of Added Displayed Volume in that month (unless a higher rebate applies).

Similar to the exclusion for purposes of determining qualification for the Displayed Liquidity Incentive, the Exchange proposes to exclude from the calculation of ADAV: (1) Any Exchange System Disruption Days; and (2) the Russell Reconstitution Day, which occurs annually on the last Friday in June.[21] As is true with respect to the Displayed Liquidity Incentive, the Exchange believes that Exchange system disruptions could preclude Members from participating on the Exchange to the extent that they might have otherwise participated on such days, and thus, the Exchange believes it is appropriate to exclude such days when determining whether a Member qualifies for the Liquidity Provision Tier to avoid penalizing Members that might otherwise have met the applicable volume threshold. For similar reasons, the Exchange believes it is appropriate to exclude the Russell Reconstitution Day in the same manner, as the Exchange believes the change to normal activity may affect a Member's ability to add liquidity to the Exchange on that day.

The Exchange believes that the proposed tiered pricing structure provides an incremental incentive for Members to strive for higher ADAV on the Exchange to receive the proposed enhanced rebate for executions of Added Displayed Volume. As such, the proposed Liquidity Provision Tier is designed to encourage Members that provide liquidity on the Exchange to maintain or increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue.

Adoption of Enhanced Rebate for Added Midpoint Volume

The Exchange is also proposing to adopt an enhanced rebate for executions of Midpoint Peg Orders that add liquidity to the Exchange (such orders, ''Added Midpoint Volume''). Currently, the Exchange provides a standard rebate of $0.0020 per share for all executions of non-displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange, including executions of Added Midpoint Volume. The Exchange now proposes to adopt an enhanced rebate for executions of Added Midpoint Volume of $0.0025 per share,[22] while all other executions of non-displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange will continue to receive the standard rebate for such transactions (*i.e.,* $0.0020 per share). The Exchange notes that executions of orders with a Midpoint Peg instruction that add liquidity to the Exchange in securities priced below $1.00 per share will continue to receive the standard rebate applicable to executions of such orders on the Exchange (*i.e.,* 0.05% of the total dollar value of the transaction).

The purpose of the proposed enhanced rebate for executions of Added Midpoint Volume is to encourage Members that provide liquidity through non-displayed orders to do so, to a greater extent, through orders that offer price improvement to the benefit of other market participants. While the Exchange's pricing structure is generally designed to encourage the provision of liquidity through displayed orders, as the rebates provided with respect to such orders are consistently higher than those for non-displayed orders, the proposed enhanced rebate for executions of Added Midpoint Volume reflects a concomitant goal of encouraging Members that use non-displayed orders to offer price

Equity 7, Section 114(d) describing Nasdaq's Qualified Market Maker Program, which provides for an additional rebate (ranging from $0.0001 to $0.0002 per share) for executions of liquidity-providing displayed orders (other than designated retail orders) in securities across all tapes priced at or above $1.00 per share for members that, in addition to executing transactions that represent a specified percentage of consolidated volume and avoiding inefficient order entry practices that place excessive burdens on Nasdaq's systems, quote at the NBBO at least 25% of the time during regular market hours in an average of at least 1,000 securities per day during the month; *see also* the Cboe BZX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*), which provides for an additional rebate (ranging from $0.0001 to $0.0002 per share) under Cboe BZX's Liquidity Management Program for executions of liquidity-providing displayed orders in Tape B securities priced at or above $1.00 per share for members that, in addition to adding a specified percentage of total consolidated volume in Tape B securities and meeting certain other quoting requirements with respect to a specified number of securities designated as ''LMP Securities'' on a list determined by Cboe BZX, quote at the NBBO at least 15% of the time during regular trading hours in a specified number of such designated LMP Securities (or achieve an alternative NBBO quoting standard involving a size-setting element with respect to such designated LMP Securities).

[18] *Id.*

[19] As proposed, the term ''ADAV'' means the average daily added volume calculated as the number of shares added per day.

[20] This proposed pricing is referred to by the Exchange on the Fee Schedule under the new description ''Added displayed volume, Liquidity Provision Tier'' with a Fee Code of ''B1'', ''D1'' or ''J1'', as applicable, to be provided by the Exchange on the monthly invoices provided to Members. The Exchange notes that because the determination of whether a Member qualifies for the Liquidity Provision Tier for a particular month will not be made until after the month-end, the Exchange will provide the Fee Codes otherwise applicable to such transactions (*i.e.,* ''B'', ''D'' or ''J'') on the execution reports provided to Members during the month and will only designate the Fee Codes of ''B1'', ''D1'' or ''J1'' on the monthly invoices, which are provided after such determination has been made.

[21] *See supra* note 14 and accompanying text.

[22] This proposed pricing is referred to by the Exchange on the Fee Schedule under the new description ''Added non-displayed volume, Midpoint Peg'' and such orders will continue to receive a Fee Code of ''M'' assigned by the Exchange.

improvement through the use of orders that are designed to execute at the midpoint of the NBBO. The Exchange believes that providing an enhanced rebate for executions of Added Midpoint Volume is a reasonable means by which to incentivize Members to provide additional liquidity at the midpoint of the NBBO, which in turn would increase the attractiveness of the Exchange as a destination venue, as Members seeking price improvement would be more motivated to direct their orders to the Exchange because they would have a heightened expectation of the availability of liquidity at the midpoint of the NBBO. The Exchange notes that the proposed enhanced rebate is comparable to, and competitive with, the rebate provided by at least one other exchange for executions of non-displayed orders in securities priced at or above $1.00 per share that are pegged to the midpoint of the NBBO.[23]

Increased Standard Fee for Removed Volume

The Exchange also proposes to increase the standard fee for executions of orders in securities priced at or above $1.00 per share that remove liquidity from the Exchange (*i.e.,* Removed Volume). Currently, the Exchange charges a standard fee of $0.0026 per share for executions of Removed Volume. The Exchange now proposes to increase the standard fee charged for executions of Removed Volume to $0.00265 per share.[24] The purpose of increasing the standard fee for executions of Removed Volume is for business and competitive reasons, as the Exchange believes that increasing such fee as proposed would generate additional revenue to offset some of the costs associated with the proposed enhanced rebates for executions of Added Displayed Volume for Members that qualify for the DLI or the Liquidity Provision Tier and executions of Added Midpoint Volume, and the Exchange's operations generally, in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange notes that despite the modest increase to the standard fee, the Exchange's fee for executions of Removed Volume remains lower than the fee to remove liquidity in securities priced at or above $1.00 charged by several other exchanges.[25]

Reduced Standard Rebate for Added Displayed Volume

The Exchange also proposes to reduce the standard rebate for executions of Added Displayed Volume. Currently, the Exchange provides a standard rebate of $0.0034 per share for executions of Added Displayed Volume. The Exchange now proposes to reduce the standard rebate for executions of Added Displayed Volume to $0.0031 per share.[26] The Exchange notes that executions of displayed orders that add liquidity to the Exchange in securities priced below $1.00 per share will continue to receive the standard rebate applicable to executions of such orders on the Exchange (*i.e.,* 0.05% of the total dollar value of the transaction).

The purpose of reducing the standard rebate for executions of Added Displayed Volume is also for business and competitive reasons, as the Exchange believes the reduction of such rebate would decrease the Exchange's expenditures with respect to transaction pricing and would also offset some of the costs associated with the proposed enhanced rebates for executions of Added Displayed Volume for Members that qualify for the DLI or the Liquidity Provision Tier and executions of Added Midpoint Volume, and the Exchange's operations generally, in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange notes that the proposed standard rebate is comparable to, and competitive with, the standard rebates provided by at least one other exchange for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity.[27]

Lastly, the Exchange proposes to add a note to the Fee Schedule specifying that to the extent a Member qualifies for multiple fees/rebates with respect to a particular transaction, the lowest fee/highest rebate shall apply. The Exchange notes that charging the fee or providing the rebate that is most favorable with respect to a particular transaction is consistent with the pricing practices of other exchanges.[28]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[29] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[30] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [31]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or

[23] *See* the Nasdaq PHLX LLC equities trading fee schedule on its public website (available at *https://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing*), which reflects a standard rebate of $0.0023 per share for adding non-displayed liquidity via an order that is pegged to the midpoint of the NBBO in a security priced at or above $1.00 per share.

[24] This proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description ''Removed volume from MEMX Book'' and such orders will continue to receive a Fee Code of ''R'' assigned by the Exchange.

[25] *See, e.g.,* the Cboe BZX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*); the Cboe EDGX Exchange, Inc. (''Cboe EDGX'') equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/*); Nasdaq Rule Equity 7, Section 118(a).

[26] This proposed pricing is referred to by the Exchange on the Fee Schedule under the existing description ''Added displayed volume'' and such orders will continue to receive a Fee Code of ''B'', ''D'' or ''J'', as applicable, assigned by the Exchange.

[27] *See* the MIAX PEARL, LLC equities trading fee schedule on its public website (available at *https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_PEARL_Equities_Fee_Schedule_01012021.pdf*), which reflects a standard rebate of $0.0032 per share to add displayed liquidity in Tape A and Tape C securities priced at or above $1.00 per share and a standard rebate of $0.0035 per share to add displayed liquidity in Tape B securities priced at or above $1.00 per share.

[28] *See, e.g.,* the Cboe BZX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*), which provides ''To the extent a Member qualifies for higher rebates and/or lower fees than those provided by a tier for which such Member qualifies, the higher rebates and/or lower fees shall apply.''

[29] 15 U.S.C. 78f.

[30] 15 U.S.C. 78f(b)(4) and (5).

[31] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes that the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, to enhance market quality in both a broad manner and in a targeted manner with respect to the DLI Target Securities, and to provide price improvement through the use of orders that are designed to execute at the midpoint of the NBBO through the provision of enhanced rebates for executions of Added Displayed Volume for Members that qualify for the DLI or the Liquidity Provision Tier and for executions of Added Midpoint Volume. While the Exchange has proposed increasing its standard fee for executions of Removed Volume and reducing its standard rebate for executions of Added Displayed Volume, as further discussed below, each of such changes represents a modest increase (decrease) from the current fee (rebate) applicable to such executions.

As noted above, the proposed DLI is intended to encourage Members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, generally, and in the DLI Target Securities, in particular, thereby benefitting the Exchange and other investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO in a broad base of securities, including the DLI Target Securities, and committing capital to support the execution of orders. Additionally, the Exchange believes the proposed enhanced rebate for all executions of a qualifying Member's Added Displayed Volume will simultaneously incentivize such Member to direct additional displayed liquidity-providing orders to the Exchange in a more general manner to receive such enhanced rebate. Thus, the Exchange believes that the proposed DLI will promote price discovery and market quality in the DLI Target Securities and more generally on the Exchange, and, further, that the resulting tightened spreads and increased displayed liquidity will benefit all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, enhancing quoting competition across exchanges, and promoting market transparency.

The Exchange believes the proposed enhanced rebate of $0.0036 per share provided to Members that qualify for the DLI for executions of Added Displayed Volume is reasonable, in that it does not reflect a disproportionate increase above the proposed standard rebate of $0.0031 per share provided to all Members with respect to the provision of displayed liquidity. The Exchange notes that the $0.0005 additional rebate for such executions for qualifying Members is a competitive proposal given that it is higher than the additional rebates provided by other exchanges for executions of displayed liquidity-providing orders for market participants that meet minimum quoting standards under similar programs designed to enhance market quality.[32] In addition, the Exchange believes that it is reasonable and consistent with an equitable allocation of fees to pay a higher rebate for executions of Added Displayed Volume to Members that qualify for the DLI because of the additional commitment to market quality reflected in the associated quoting requirements. Such Members benefit all investors by promoting price discovery and increasing the depth of liquidity available at the NBBO and also benefit the Exchange itself by enhancing its competitiveness as a market that attracts actionable orders. Further, the Exchange notes that the proposed DLI would apply uniformly to all Members, and any Member may choose to qualify for the DLI by meeting the associated requirements in any month, regardless of the volume of transactions that it executes on the Exchange. The Exchange acknowledges that firms that do not post displayed liquidity on the Exchange or do so on a smaller scale may not have the level of capital necessary to support meeting the proposed DLI's requirements, however, the Exchange believes that the requirements are attainable for many market participants who do actively quote on exchanges and are reasonably related to the enhanced market quality that the DLI is designed to promote. Additionally, the Exchange notes that Members that do not meet the proposed DLI's requirements may still qualify for a rebate that is higher than the standard rebate for executions of Added Displayed Volume through the proposed Liquidity Provision Tier, which does not require a Member to consistently quote at the NBBO across a broad range of securities. Accordingly, the Exchange believes that it is consistent with an equitable allocation of fees and is not unfairly discriminatory to pay a higher rebate in comparison with the rebate paid to other Members for executions of displayed liquidity-providing orders in recognition of these benefits to the Exchange and market participants, particularly as the magnitude of the additional rebate is not unreasonably high and is, instead, reasonably related to such enhanced market quality.

The Exchange also believes that including in the proposed DLI qualification criteria a quoting requirement for certain specified securities (*i.e.,* the DLI Target Securities), in addition to the more general 250 securities requirement, is equitable and not unfairly discriminatory because the Exchange has identified the DLI Target Securities as securities in which it would like to inject additional quoting competition, which the Exchange believes will generally act to narrow spreads, increase size at the NBBO, and increase liquidity depth in such securities, thereby increasing the attractiveness of the Exchange as a destination venue with respect to such securities. Accordingly, the Exchange believes that this aspect of the proposal is reasonable, equitably allocated, and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality.

Furthermore, as noted above, the proposed DLI is similar in structure and purpose to pricing programs in place at other exchanges that are designed to enhance market quality.[33] Specifically, these programs, like the proposed DLI, provide a higher rebate for executions of liquidity-adding displayed orders for members that achieve minimum quoting standards, including minimum quoting at the NBBO in a large number of securities, generally, or certain designated securities, in particular.[34] The Exchange also notes that the proposed DLI is not dissimilar from volume-based rebates and fees (''Volume Tiers''), like the Liquidity Provision Tier proposed in this filing, which have been widely adopted by exchanges[35] and are equitable and not

[32] *See supra* note 17.

[33] *Id.*

[34] *Id.*

[35] *See, e.g.,* the Cboe BZX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/bzx/*); the Cboe EDGX equities trading fee schedule on its public website (available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/*).

unfairly discriminatory because they are generally open to all members on an equal basis and provide higher rebates and/or lower fees that are reasonably related to the value to an exchange's market quality. Much like Volume Tiers are generally designed to incentivize higher levels of liquidity provision, the proposed DLI is designed to incentivize enhanced market quality on the Exchange through tighter spreads, greater size at the NBBO, and greater quoting depth in a large number of securities, generally, and in the DLI Target Securities, in particular, through the provision of an enhanced rebate for all executions of a qualifying Member's Added Displayed Volume, where such rebate will in turn incentivize higher levels of displayed liquidity provision in a general manner. Accordingly, the Exchange believes that the proposed DLI would act to enhance liquidity and competition across exchanges in the DLI Target Securities and enhance liquidity provision in all securities on the Exchange more generally by providing a rebate reasonably related to such enhanced market quality to the benefit of all investors, thereby promoting the principles discussed in Sections 6(b)(4) and 6(b)(5) of the Act.[36]

The Exchange also believes that adding to the Fee Schedule the notes describing the calculation methodologies and criteria for determining whether a Member satisfies the requirements to qualify for the DLI, as well as the definitions of terms that are used in these notes, is reasonable, equitable, and non-discriminatory because these notes and definitions are designed to ensure that the Fee Schedule is as clear and easily understandable as possible with respect to the requirements of the proposed DLI. Additionally, the Exchange believes that excluding Exchange System Disruption Days and the Russell Reconstitution Day when determining whether a Member qualifies for the proposed DLI during a month is reasonable, equitable, and non-discriminatory because, as explained above, the Exchange believes doing so would help to avoid penalizing Members that might otherwise have met the requirements to qualify for the proposed DLI due to Exchange system disruptions and/or abnormal market conditions. The Exchange notes that the exclusion of Exchange System Disruption Days and the Russell Reconstitution Day is consistent with the methodologies used by other exchanges when calculating certain member trading and other volume metrics for purposes of determining whether members qualify for certain pricing incentives.[37]

As noted above, Volume Tiers, like the Liquidity Provision Tier proposed in this filing, have been widely adopted by exchanges[38] and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide rebates that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes the proposed Liquidity Provision Tier is equitable and not unfairly discriminatory for these same reasons, as it is open to all Members and is designed to encourage Members that provide liquidity on the Exchange to maintain or increase their order flow in this regard, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. Additionally, the Exchange believes the proposed enhanced rebate for executions of Added Displayed Volume for qualifying Members (*i.e.,* $0.00335 per share) is reasonable, in that it represents only a modest increase above the proposed standard rebate for such executions (*i.e.,* $0.0031 per share) as well as a modest decrease from the current standard rebate for such executions (*i.e.,* $0.0034 per share). Thus, the Exchange believes that it is reasonable, consistent with an equitable allocation of fees, and not unfairly discriminatory to pay such higher rebate for executions of Added Displayed Volume to Members that qualify for the Liquidity Provision Tier in comparison with the standard rebate in recognition of benefits to the Exchange and market participants described above, particularly as the magnitude of the additional rebate is not unreasonably high and is, instead, reasonably related to the enhanced market quality it is designed to achieve. The Exchange further believes that such rebate is reasonable as it offers an alternative way for Members that do not meet the proposed DLI's requirements to qualify for a rebate that is higher than the proposed standard rebate for executions of Added Displayed Volume that does not require such Members to consistently quote at the NBBO across a broad range of securities.

Additionally, the Exchange believes that excluding Exchange System Disruption Days and the Russell Reconstitution Day when determining whether a Member qualifies for the proposed Liquidity Provision Tier during a month is reasonable, equitable, and non-discriminatory because, as explained above, the Exchange believes doing so would help to avoid penalizing Members that might otherwise have met the requirements to qualify for the proposed Liquidity Provision Tier due to Exchange system disruptions and/or abnormal market conditions. The Exchange notes that the exclusion of Exchange System Disruption Days and the Russell Reconstitution Day is consistent with the methodologies used by other exchanges when calculating certain member trading and other volume metrics for purposes of determining whether members qualify for certain pricing incentives, including calculations of ADAV for Volume Tiers specifically.[39]

With respect to the proposed enhanced rebate for executions of Added Midpoint Volume, the Exchange believes that providing a rebate for such executions that is higher than the standard rebate for executions of other non-displayed orders in securities priced at or above $1.00 per share that add liquidity to the Exchange is reasonable as the Exchange believes this would encourage Members that provide liquidity through non-displayed orders to do so, to a greater extent, through orders designed to execute at the midpoint of the NBBO. Because such orders provide price improvement to the benefit of other market participants, the Exchange believes it is reasonable and consistent with an equitable allocation of fees to provide an enhanced rebate to encourage their use, while still maintaining an overall pricing structure that places even greater emphasis on the value of displayed liquidity in advancing transparency and price discovery. The Exchange further believes the proposed enhanced rebate is reasonable because, as noted above, it is comparable to, and competitive with, the rebate provided by at least one other exchange for executions of non-displayed orders in securities priced at or above $1.00 per share that are pegged to the midpoint of the NBBO.[40] The Exchange also believes this proposed enhanced rebate is not unfairly discriminatory as it would apply equally to all Members and the elements of differentiation between displayed and non-displayed liquidity and orders designed to execute at the midpoint of the NBBO and other non-displayed

[36] 15 U.S.C. 78f(b)(4) and (5).

[37] *See supra* note 14.

[38] *See supra* note 35.

[39] *See supra* note 14.

[40] *See supra* note 23.

orders promote the goals of price discovery and encouraging market participants to provide price improvement.

The Exchange believes that the proposed changes to increase the standard fee for executions of Removed Volume and reduce the standard rebate for executions of Added Displayed Volume are reasonable, equitable, and consistent with the Act because such changes are designed to generate additional revenue and decrease the Exchange's expenditures with respect to transaction pricing to offset some of the costs associated with the proposed enhanced rebates for executions of Added Displayed Volume for Members that qualify for the DLI or the Liquidity Provision Tier and executions of Added Midpoint Volume, and the Exchange's operations generally, in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange also believes the proposed increased standard fee for executions of Removed Volume is reasonable and appropriate because it represents a modest increase from the current standard fee and, as noted above, remains lower than the fee to remove liquidity in securities priced at or above $1.00 charged by several other exchanges.[41] Similarly, the Exchange believes the proposed reduced standard rebate for executions of Added Displayed Volume is reasonable and appropriate because it represents a modest decrease from the current standard rebate and, as noted above, remains comparable to, and competitive with, the standard rebates provided by at least one other exchange for executions of orders in securities priced at or above $1.00 per share that add displayed liquidity.[42] The Exchange further believes that the proposed increased standard fee for executions of Removed Volume and the proposed reduced standard rebate for executions of Added Displayed Volume are equitably allocated and not unfairly discriminatory because they both will apply equally to all Members.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the proposed fees and rebates described herein are appropriate to address such forces.

Finally, the Exchange believes that the proposed change to add a note on the Fee Schedule specifying that to the extent a Member qualifies for multiple fees/rebates with respect to a particular transaction, the lowest fee/highest rebate shall apply is reasonable, equitable, and non-discriminatory because it applies uniformly to all Members and is designed to clarify for Members which fee or rebate is applicable to their transactions. Thus, Exchange believes that this proposed change will make the Fee Schedule clearer and eliminate potential confusion in this regard, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. Further, as noted above, this practice is consistent with the pricing practices of other exchanges.[43]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is designed to enhance market quality on the Exchange in a large number of securities, generally, and in the DLI Target Securities, in particular, to encourage Members to maintain or increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, and to encourage Members to provide price improvement through the use of orders that are designed to execute at the midpoint of the NBBO. In turn, the Exchange believes the proposed enhanced rebates for executions of Added Displayed Volume for Members that qualify for the DLI or the Liquidity Provision Tier and for executions of Added Midpoint Volume would encourage the submission of additional order flow to the Exchange, particularly in the form of Added Displayed Volume and Added Midpoint Volume, thereby promoting market depth, enhanced execution opportunities, price improvement, and price discovery to the benefit of all Members and market participants. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [44]

Intramarket Competition

The Exchange believes that the proposal would incentivize Members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, including the DLI Target Securities, to maintain or increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, and to provide price improvement through the use of orders that are designed to execute at the midpoint of the NBBO, which the Exchange believes, in turn, would continue to encourage participants to direct order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The opportunity to qualify for the DLI, and thus receive the proposed enhanced rebate for executions of Added Displayed Volume, would be available to all Members that meet the associated requirements in any month, regardless of the volume of transactions that it executes on the Exchange, and as noted above, the Exchange believes that the DLI's requirements are attainable for many market participants who actively quote on exchanges and are reasonably related to the enhanced market quality that the DLI is designed to promote. Similarly, the opportunity to qualify for the Liquidity Provision Tier, and thus also receive an enhanced rebate for executions of Added Displayed Volume (albeit a rebate lower than that provided for Members who qualify for the DLI), would be available to all Members that meet the associated volume requirement in any month. The Exchange believes the volume requirement of the Liquidity Provision Tier is attainable for several

[41] *See supra* note 25.

[42] *See supra* note 27.

[43] *See supra* note 28.

[44] *See supra* note 31.

market participants who add displayed liquidity executed on the Exchange and is reasonably related to the enhanced market quality that the Liquidity Provision Tier is designed to promote. Similarly, the proposed enhanced rebate for executions of Added Midpoint Volume, the proposed increased standard fee for executions of Removed Volume, and the proposed reduced standard rebate for executions of Added Displayed Volume would apply equally to all Members. As such, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intermarket Competition

The Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to executions of Added Displayed Volume, Added Midpoint Volume, and Removed Volume, and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed changes are competitive proposals through which the Exchange is seeking to encourage certain order flow to be sent to the Exchange and to promote market quality through pricing incentives that are similar in structure and purpose to pricing programs in place at other exchanges.[45] Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar incentives to market participants that enhance market quality.

Additionally, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [46] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *SEC,* the D.C. Circuit stated as follows: ''[N]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[47] Accordingly, the Exchange does not believe its proposed pricing changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[48] and Rule 19b–4(f)(2)[49] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2021–07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MEMX–2021–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of 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

[45] *See supra* notes 17, 23, and 35.

[46] *See supra* note 31.

[47] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSE–2006–21)).

[48] 15 U.S.C. 78s(b)(3)(A)(ii).

[49] 17 CFR 240.19b–4(f)(2).

submissions should refer to File Number SR–MEMX–2021–07 and should be submitted on or before July 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12593 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–095, OMB Control No. 3235–0084]**

## Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*
Rule 17Ac2–1

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ac2–1 (17 CFR 240.17Ac2–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ac2–1, pursuant to Section 17A(c) of the Exchange Act, generally requires transfer agents for whom the Commission is the transfer agent's Appropriate Regulatory Agency (''ARA''), to file an application for registration with the Commission on Form TA–1 and to amend their registrations under certain circumstances.

Specifically, Rule 17Ac2–1 requires transfer agents to file a Form TA–1 application for registration with the Commission where the Commission is their ARA. Such transfer agents must also amend their Form TA–1 if the existing information on their Form TA–1 becomes inaccurate, misleading, or incomplete within 60 days following the date the information became inaccurate, misleading or incomplete. Registration filings on Form TA–1 and amendments thereto must be filed with the Commission electronically, absent an exemption, on EDGAR pursuant to Regulation S–T (17 CFR 232).

The Commission annually receives approximately 199 filings on Form TA–1 from transfer agents required to register as such with the Commission. Included in this figure are approximately 167 amendments made annually by transfer agents to their Form TA–1 as required by Rule 17Ac2–1(c) to address information that has become inaccurate, misleading, or incomplete and approximately 32 new applications by transfer agents for registration on Form TA–1 as required by Rule 17Ac2–1(a). Based on past submissions, the staff estimates that on average approximately twelve hours are required for initial completion of Form TA–1 and that on average one and one-half hours are required for an amendment to Form TA–1 by each such firm. Thus, the subtotal burden for new applications for registration filed on Form TA–1 each year is approximately 384 hours (12 hours times 32 filers = 384) and the subtotal burden for amendments to Form TA–1 filed each year is approximately 251 hours (1.5 hours times 167 filers = 250.5 rounded up to 251). The cumulative total is approximately 635 burden hours per year (384 hours plus 251 hours).

Of the approximately 635 hours per year associated with Rule 17Ac2–1, the Commission staff estimates that (i) sixty percent (380.7 hours) are spent by compliance staff at an estimated hourly wage of $283, for a total of $107,738.10 per year (380.7 hours × $283 per hour = $107,738.10 per year; (ii) forty percent (253.8 hours) are spent by attorneys at an estimated hourly wage of $380, for a total of $96,444 per year (253.8 hours × $380 per hour = $96,444 per year); and (iii) the total internal cost of compliance associated with the Rule is thus approximately $204,182.10 per year ($107,738.10 in compliance staff costs + $96,444 in attorney costs = $204,182.10 per year).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed 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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, 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*.

Dated: June 10, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12658 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–92151; File No. SR–CboeEDGA–2021–013]**

## Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data

June 10, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2021, Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to introduce a new data product to be known as Short Sale Volume data. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the

[50] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Secretary, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to adopt Rule 13.8(g) to provide for a new data product to be known as Short Sale Volume data. The proposal introduces Short Sale Volume data that will be available for purchase to EDGA Members (''Members'') and non-Members.[3] The proposal is similar to products offered by the New York Stock Exchange LLC (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'') which provide short sale volume information. The Exchange also proposes to change the name of Rule 13.8 to ''Data Products'' and add a preamble to Rule 13.8 to conform to Cboe BZX Exchange, Inc. (''BZX'') and Cboe BYX Exchange, Inc. (''BYX'') Rule 11.22.

A description of each market data product offered by the Exchange is described in Exchange Rule 13.8. The Exchange proposes to adopt Rule 13.8(g) to introduce and add a description of the Short Sale Volume data product. The Exchange proposes to describe the Short Sale Volume data as ''a data product that summarizes short sale volume (shares traded on EDGA). Short Sale Volume data is available on an end-of-day and intraday basis.''

The Exchange proposes to offer Short Sale Volume data on an end-of-day and intraday basis which will be available for purchase by Members and non-Members. Specifically, the Exchange proposes to offer an end-of-day short sale volume report that includes the date, session (*i.e.,* Pre-Opening Session,[4] Regular Trading Hours,[5] or Post-Closing Session [6]),[7] symbol, trade count, buy and sell volume, type of sale (*i.e.,* sell, sell short, or sell short exempt), capacity (*i.e.,* principal, agent, or riskless principal), and retail order indicator. The end-of-day Short Sale Volume data would include same day corrections to short sale volume.

The Exchange also proposes to offer Short Sale Volume data on an intraday basis that will provide the same information to that of end-of-day Short Sale Volume data, but will be produced and updated every 10 minutes during the trading day. Data is captured in ''snapshots'' taken every 10 minutes throughout the trading day and is available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product will receive the first calculation of intraday data by approximately 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured through 9:50 a.m., and so forth. Each update will represent combined data captured from the current ''snapshot'' and all previous ''snapshots'' and thus will provide short sale volume data on an aggregate basis. The intraday Short Sale Volume data will not include same day corrections, as proposed in the end-of-day data. The proposed data products provide proprietary EDGA trade data and do not include trade data from any other exchange.

The proposed end-of-day and intraday Short Sale Volume data will be available for purchase on a monthly subscription basis. Subscribers to the end-of-day Short Sale Volume data will receive a daily end-of-day file. Similarly, subscribers to the intraday Short Sale Volume data will receive data which will be produced and updated every 10 minutes as described above. Additionally, end-of-day and intraday Short Sale Volume data will be available on a historical basis for purchase as far back as January 3, 2017.[8] The subscription files and historical ad hoc files will include the same data points. Further, the Exchange will establish a monthly subscriber fee and historical ad hoc fee for the Short Sale Volume data by way of a separate proposed rule change, which the Exchange will submit in connection with the launch of the Short Sale Volume data product.

The Exchange anticipates a wide variety of market participants to purchase Short Sale Volume data, including, but not limited to active equity trading firms and academic institutions. For example, the Exchange notes that academic institutions may utilize Short Sale Volume data and as a result promote research and studies of the equities industry to the benefit of all market participants. The Exchange believes the proposed Short Sale Volume data products may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, Short Sale Volume data may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security. The proposal is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange notes that other exchanges offer similar data products.[9]

Based on the above proposal, the Exchange also proposes to amend the name of Rule 13.8 from ''EDGA Book Feeds'' to ''Data Products''. Such an amendment would accurately describe the Rule as the proposed product is not a book feed, but rather a data product. Further, the existing data feeds identified in Rule 13.8 are also data products. The Exchange also proposes to add the following preamble to Rule 13.8: ''The Exchange offers the following data products free of charge, unless otherwise noted in the Exchange's fee schedule''. The proposed language conforms to rule text provided in BZX and BYX Rules 13.8.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the

[3] The Exchange intends to submit a separate rule filing to establish fees for Short Sale Volume data.

[4] *See* Exchange Rule 1.5(s).

[5] *See* Exchange Rule 1.5(y).

[6] *See* Exchange Rule 1.5(r).

[7] Session information will only be available in data after July 31, 2020.

[8] Historical data will be available on an ad hoc basis.

[9] *See* the Nasdaq Daily Short Sale Volume files at *https://nasdaqtrader.com/Trader.aspx?id=shortsale. See also* the NYSE TAQ Group Short Sales and Short Volume at *https://www.nyse.com/market-data/historical/taq-nyse-group-short-sales.*

[10] 15 U.S.C. 78f(b).

Act,[11] in particular, in that it is 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Short Sale Volume data would further broaden the availability of U.S. equity market data to investors consistent with the principles of Regulation NMS. The proposal also promotes increased transparency through the dissemination of Short Sale Volume data. The proposed rule change would benefit investors by providing access to the Short Sale Volume data, which may promote better informed trading. Particularly, information regarding Short Sale Volume may allow a market participant to identify the source of selling pressure and whether it is long or short. Further, it may provide more visibility into increasing and decreasing retail interest in a specific security.

Moreover, other exchanges offer similar data products.[13] Nasdaq offers a daily short sale volume report and NYSE offers the TAQ group short sales and short volume product, which provide similar information to that included in the proposed end-of-day Short Sale Volume data product. The Nasdaq daily short sale volume file reflects the aggregate number of shares executed on Nasdaq, BX and PSX during regular trading hours.[14] Specifically, the Nasdaq daily short sale volume provides the following information: Date, symbol, volume during regular trading hours, and CTA market identifier. The NYSE daily short volume file reflects a summary of short sale volume for securities traded on NYSE, NYSE American, NYSE Arca, NYSE National, and NYSE Chicago. Specifically, the NYSE short sales and short volume product provides the following information: Date, symbol, short exempt volume, short volume, total volume of the short sale transaction, and market identifier. NYSE and Nasdaq also offer monthly short sale volume reports which offer different information than that provided in their daily short sale reports.

The Exchange proposes to include different and additional data in the proposed products. Specifically, the Exchange proposes to include session information, trade count, capacity, and a retail order indicator in the proposed data product which are not currently provided in either the NYSE or Nasdaq short sale volume product offerings. Further, the Exchange proposes to offer an intraday Short Sale Volume data product, which is not offered by other exchanges. The Exchange believes the additional data points and the intraday data will benefit market participants because they will provide visibility into market activity that is not currently available. Further it will allow market participants to better understand the changing risk environment on a daily and intraday basis. Therefore, the Exchange believes it is reasonable to include such data in the proposed products.

The Exchange believes the proposal to change the name of Rule 13.8 to ''Data Products'' is reasonable because the proposed Short Sale Volume report is not a book feed, and thus ''EDGA Book Feeds'' does not accurately describe all of the paragraphs under Rule 13.8. The Exchange also believes the proposal to add the preamble to Rule 13.8 is reasonable because it will eliminate potential investor confusion as to which data products the Exchange charges a fee. Furthermore, both of the aforementioned changes to Rule 13.8 are identical to the text of BZX and BYX Rule 11.22.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer data products similar to those offered by other competitor equities exchanges.[15] The Exchange is proposing to introduce Short Sale Volume data in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, at least two other U.S. equity exchanges offer a market data product that is similar to the proposed Short Sale Volume data.[16] As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CboeEDGA–2021–013 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.

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] *See* Supra note 9.

[14] *See https://nasdaqtrader.com/Trader.aspx?id=shortsale.*

[15] *See* Supra note 9.

[16] *Id.*

All submissions should refer to File Number SR–CboeEDGA–2021–013. 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–CboeEDGA–2021–013, and should be submitted on or before July 7, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12594 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–629, OMB Control No. 3235–0719]**

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

*Extension:*

Exchange Act Rules 13n–1—13n–12; Form SDR

[17] 17 CFR 200.30–3(a)(12).

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rules 13n–1 through 13n–12 (17 CFR 240.13n–1 through 240.13n–12) and Form SDR (''Rules''), under the Securities Exchange Act of 1934 (15 U.S.C. 78m(n)(3) *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Under the Rules, security-based swap data repositories (''SDRs'') are required to register with the Commission by filing a completed Form SDR (the filing of a completed Form SDR also constitutes an application for registration as a securities information processor (''SIP'')). SDRs are also required to abide by certain minimum standards set out in the Rules, including a requirement to update Form SDR, abide by certain duties and core principles, maintain data in accordance with the rules, keep systems in accordance with the Rules, keep records, provide reports to the Commission, maintain the privacy of security-based swaps (''SBSs'') data, make certain disclosures, and designate a Chief Compliance Officer. In addition, there are a number of collections of information contained in the Rules. The information collected pursuant to the Rules is necessary to carry out the mandates of the Dodd-Frank Act and help ensure an orderly and transparent market for SBSs.

Assuming a maximum of ten SDRs, the Commission estimates that the total reporting burden for all of the Rules and Form SDR for all respondents is 463,493 hours initially, with a total annual burden thereafter of 270,511.70 hours totaling approximately 1,275,028 hours. This equates to approximately 425,009.29 hours per year when annualized over three years. In addition, the Commission estimates that the total cost for all of the Rules and Form SDR for all respondents is approximately $103,364,700 initially, with a total annual cost thereafter of $65,227,720 totaling approximately $299,047,860. This equates to $99,682,619.90 per year when annualized over three years. A detailed break-down of the estimated burdens and costs is provided in the supporting statement.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of 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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, 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.*

Dated: June 10, 2021.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–12656 Filed 6–15–21; 8:45 am]

**BILLING CODE 8011–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Transfer of Federally Assisted Facility

**AGENCY:** Federal Transit Administration (FTA), United States Department of Transportation (USDOT).

**ACTION:** Notice of intent (NOI) to transfer federally assisted land or facility.

**SUMMARY:** The Administrator of the Federal Transit Administration (FTA) may authorize a recipient of FTA funds to transfer land or a facility to a public body for any public purpose with no further obligation to the Federal Government (the Government) if, among other things, no Federal agency is interested in acquiring the asset for Federal use. FTA is issuing this Notice to advise Federal agencies that the Central Oklahoma Transportation and Parking Authority (COTPA) has requested FTA approval to transfer the Union Station property (Property) to the City of Oklahoma City (City) if no Federal agency is interested in acquiring the asset for Federal use. The 2.75-acre Property is located within the City of Oklahoma City at 300 SW 7th Street, Oklahoma City, OK.

**DATES:** Any Federal agency interested in acquiring the facility must notify the

FTA Region VI office of its interest no later than July 16, 2021.

**ADDRESSES:** Interested parties should notify FTA's Regional VI Office by writing to Gail Lyssy, Regional Administrator, Federal Transit Administration, 819 Taylor Street, Room 14A02, Fort Worth, TX 76102.

**FOR FURTHER INFORMATION CONTACT:** Forrest Graham, Regional Counsel, (415) 734–9479.

**SUPPLEMENTARY INFORMATION:**

**Background**

Federal public transportation law (49 U.S.C. 5334(h)) sets forth requirements for the transfer of capital assets. Specifically, if a recipient of FTA assistance decides an asset acquired under 49 U.S.C. Chapter 53 at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. 49 U.S.C. 5334(h)(1).

COTPA purchased the Property in the early 1980s to be used as a transit hub with rail service. Due to the realignment of Interstate 40, however, the Property no longer is suitable for either rail or bus transit service. It is currently being used as office space for five COTPA finance employees. The City has committed to incorporating the Property into the $132 million downtown Scissortail Park to serve as the Park's administrative, operations, and maintenance center. Additionally, the City will use the Property for a visitor's center, rentable space for private and public gatherings, a public café space, storage and workshop space for building and repair needs, and recreational and cultural programs for youth and adults.

**Determinations**

The FTA Administrator may authorize a transfer for a public purpose other than mass transportation only if the FTA Administrator decides:

(A) The asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) There is no purpose eligible for assistance under Chapter 53 of title 49, United States Code, for which the asset should be used;

(C) The overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) Through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

The FTA Administrator has determined that the above requirements (A), (B), and (C) have been met; this Notice is issued pursuant to requirement (D).

**Federal Interest in Acquiring Land or Facility**

This Notice implements the requirements of 49 U.S.C. 5334(h)(1)(D). Accordingly, FTA hereby provides notice of the availability of the Property further described below. Any Federal agency interested in acquiring the Property should promptly notify FTA. If no Federal agency is interested in acquiring the Property, FTA will assure that the other requirements specified in 49 U.S.C. 5334(h)(1)(A) through (C) are met before permitting the asset to be transferred.

(Authority: 49 U.S.C. 5334(h))

**Nuria I. Fernandez,**

*Deputy Administrator.*

[FR Doc. 2021–12584 Filed 6–15–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0117]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: JANISE (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0117 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0117 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0117, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel JANISE is:

—*Intended Commercial Use of Vessel:* ''Private sailing charters''

—*Geographic Region Including Base of Operations:* ''Puerto Rico'' (Base of Operations: Puerto del Rey Marina, Puerto Rico)

—*Vessel Length and Type:* 38′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0117 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise

endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0117 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12718 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0036]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FIRST STRIKE (Sportfisher); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0036 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0036 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0036, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel FIRST STRIKE is:

—*Intended Commercial Use of Vessel:* ''Charter''
—*Geographic Region Including Base of Operations:* ''New Jersey'' (Base of Operations: Neptune, NJ)
—*Vessel Length and Type:* 44′ Sportfisher

The complete application is available for review identified in the DOT docket as MARAD 2021–0036 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the

instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0036 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12679 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0082]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CHASING WATERFALLS (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0082 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0082 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0082, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel CHASING WATERFALLS is:

—*Intended Commercial Use of Vessel:* ''From Private Day charters to extended Charters, usually small private groups led by one person marketing the high end charter buyer.''

—*Geographic Region Including Base of Operations:* ''Hawaii'' (Base of Operations: Honolulu, HI)

—*Vessel Length And Type:* 52′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD 2021–0082 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected

on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0082 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12634 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0080]**

### Requested Administrative Waiver of the Coastwise Trade Laws: LUCY (Sailing Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0080 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0080 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0080, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Meade, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone 202–366–3157, Email *James.Mead@dot.gov*.

**SUPPLEMENTARY INFORMATION:** As described by the applicant, the intended service of the vessel LUCY is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire.''
—*Geographic Region Including Base of Operations:* ''ME, NH, MA, RI, CT, and all other east coast states.'' (Base of Operations: Bristol, Maine)
—*Vessel Length and Type:* 26′ Sailing Vessel

The complete application is available for review identified in the DOT docket as MARAD–2021–0080 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0080 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for

new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12632 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0033]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: AQUADISTANT (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0033 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0033 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0033, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel AQUADISTANT is:

—*Intended Commercial Use of Vessel:* ''charter passenger 6 or fewer''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Fort Lauderdale, FL)
—*Vessel Length and Type:* 42′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0033 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0033 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12676 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0039]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: EXCELLING IN EXCELLENCE (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0039 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0039 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0039, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application the intended service of the vessel EXCELLING IN EXCELLENCE is:

—*Intended Commercial Use of Vessel:* ''I intend to carry passengers for hire on sightseeing tours in Chicago.''

—*Geographic Region Including Base of Operations:* ''ILLINOIS'' (Base of Operations: Chicago IL)

—*Vessel Length and Type:* 46′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0039 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0039 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12682 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0081]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LOVE LIFE (Mono Hull); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0081 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0081 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0081, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel LOVE LIFE is:

—*Intended Commercial Use of Vessel:* ''This vessel will be used for chartering passengers within the State of Florida''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Fort Lauderdale, FL)

—*Vessel Length and Type:* 68′ Mono Hull

The complete application is available for review identified in the DOT docket as MARAD 2021–0081 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0081 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime

Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12633 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0078]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MICKEY FINN (Down East Cruiser); Invitation for Public Comments

**AGENCY:** Maritime Administration, Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0078 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0078 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0078, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MICKEY FINN is:

—*Intended Commercial Use of Vessel:* ''Charter vessel for evening cruises, sightseeing tours''

—*Geographic Region Including Base of Operations:* ''Maine'' (Base of Operations: Falmouth, ME)

—*Vessel Length and Type:* 31.7′ Downeast Cruiser

The complete application is available for review identified in the DOT docket as MARAD 2021–0078 *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0078 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible,

a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12630 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0076]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MUSIC TO MY EARS (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0076 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0076 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0076, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MUSIC TO MY EARS is:

—*Intended Commercial Use of Vessel:* ''To operate an un-inspected small passenger vessel for hire for day charters.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Key West, FL)

—*Vessel Length and Type:* 65′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0076 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0076 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as

described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12629 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0092]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MINI YACHT (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0092 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0092 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0092, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MINI YACHT is:

—*Intended Commercial Use of Vessel:* ''To be used for charity to raise funds for the 501–3c. Up to 4 trips a year. The boat or owner will not profit from this in any way. All other use of this vessel will be personal''

—*Geographic Region Including Base of Operations:* ''Illinois, Lake Michigan'' (Base of Operations: DuSable Harbor, Chicago, IL)

—*Vessel Length and Type:* 49.8′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0092 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0092 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their

organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12712 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0027]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BILLY BEY (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0027 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0027 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0027, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel BILLY BEY is:

—*Intended Commercial Use of Vessel:* ''The vessel is recreational for pleasure, and will only be used commercially for limited concierge services for transporting marina clients to and from Manhattan and around the NY area for tourism purposes.''

—*Geographic Region Including Base of Operations:* ''New York, New Jersey, Connecticut'' (Base of Operations: Brooklyn, NY)

—*Vessel Length and Type:* 52′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0021 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0027 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves,

all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12672 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0097]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SPIRIT (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0097 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0097 and follow the instructions for submitting comments.
- *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0097, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SPIRIT is:

—*Intended Commercial Use of Vessel:* ''Recreational Passenger (6 or fewer)''

—*Geographic Region Including Base of Operations:* ''Illinois, Wisconsin, Michigan'' (Base of Operations: Wilmette Harbor, Wilmette, IL)

—*Vessel Length and Type:* 37.6′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0097 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0097 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12716 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0084]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: THE OFFICE (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0084 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0084 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0084, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel THE OFFICE is:

—*Intended Commercial Use of Vessel:* ''Time Charters''

—*Geographic Region Including Base of Operations:* ''Florida, New York, Connecticut, Rhode Island and Massachusetts.'' Base of Operations: Old Saybrook, CT

—*Vessel Length and Type:* 68.3′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0084 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0084 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12635 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0085]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ANDALUCIA (Inboard Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0085 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0085 and follow the instructions for submitting comments.
- *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0085, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel ANDALUCIA is:

—*Intended Commercial Use of Vessel:* ''Will be using this vessel for Passenger tour Charters''
—*Geographic Region Including Base of Operations:* ''Florida and Bahamas'' (Base of Operations: Miami, FL)
—*Vessel Length and Type:* 35′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0085 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0085 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12706 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0088]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FUJICAP (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0088 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0088 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0088, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel FUJICAP is:

—*Intended Commercial Use of Vessel:* ''For commercial passenger carrying operations. We intend to do whale watching, sightseeing, and sailing for customers in small Covid safe groups in the waters off of Honolulu, Hawaii.''

—*Geographic Region Including Base of Operations:* ''Hawaii'' (Base of Operations: Honolulu, HI)

—*Vessel Length and Type:* 76′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0088 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0088 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12709 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0026]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: AURORA P (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0026 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0026 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0026, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel AURORA P is:

—*Intended Commercial Use of Vessel:* ''Carrying 6 passengers or less on day charters.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Key West, FL)

—*Vessel Length and Type:* 40.8′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0026 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0026 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

#### Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12674 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0028]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PAU HANA (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0028 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0028 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0028, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel PAU HANA is:

—*Intended Commercial Use of Vessel:* ''6 passenger day charters, sunset and dinner cruises out of Honolulu.''
—*Geographic Region Including Base of Operations:* ''Hawaii'' (Base of Operations: Honolulu, HI)
—*Vessel Length and Type:* 41′ Sailing Catamaran

The complete application is available for review identified in the DOT docket as MARAD 2021–0028 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0028 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12673 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0073]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PEREGRINE (Sailing Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry

no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0073 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0073 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0073, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov*.

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel PEREGRINE is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers''

—*Geographic Region Including Base of Operations:* ''Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas'' (Base of Operations: Charleston, SC)

—*Vessel Length and Type:* 46.6′ Sailing Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0073 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0073 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12626 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0074]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: PENELOPE (Sail); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders

or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0074 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0074 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0074, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application the intended service of the vessel PENELOPE is:

—*Intended Commercial Use of Vessel:* ''charter''
—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: San Diego, CA)
—*VESSEL LENGTH AND TYPE:* 34′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0074 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0074 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12627 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0086]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ATHENA (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0086 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0086 and follow the instructions for submitting comments.

• *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0086, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel ATHENA is:

—*Intended Commercial Use of Vessel:* ''The intended use of this vessel is as an OUPV/6-pack sailing charter. This vessel will be used to sail with six or fewer passengers for the purpose of pleasure, sight-seeing, and sailing instruction.''

—*Geographic Region Including Base of Operations:* ''U.S. Gulf Coast: Texas, Louisiana, Mississippi, Alabama, Florida. Texas, specifically Galveston Bay, will be the primary area of operation.'' (Base of Operations: Aledo, TX)

—*Vessel Length and Type:* 44′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0086 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0086 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12707 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0094]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: RUNAWAY (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0094 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search

MARAD–2021–0094 and follow the instructions for submitting comments.

• *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0094, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel RUNAWAY is:

—*Intended Commercial Use of Vessel:* ''Charter''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Los Angeles, CA)

—*Vessel Length and Type:* 52′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0094 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0094 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12714 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0087]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BLU NORTH (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0087 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0087 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0087, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel BLU NORTH is:

—*Intended Commercial Use of Vessel:* ''Six pack charter coastwise''

—*Geographic Region Including Base of Operations:* ''Eastern seaboard. Atlantic inshore New York, Florida'' (Base of Operations: Lake Placid, NY; Lake Champlain, NY)

—*Vessel Length and Type:* 37.8′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0087 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0087 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12708 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0040]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ELLA CLARE (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0040 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0040 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0040, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your

document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel ELLA CLARE is:

—*Intended Commercial Use of Vessel:* ''Ella Clare is a charter vessel used for pleasure sailing only.''

—*Geographic Region Including Base of Operations:* ''Ella Clare may be visiting ports in the following states: Main, New Hampshire, Massachusetts, Rhode Island, Connecticut, New Jersey, New York, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Illinois, Indiana, Wisconsin and Michigan.'' (Base of Operations: Baltimore, MD)

—*Vessel Length and Type:* 76′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0040 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0040 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12683 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0034]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ANGEL (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0034 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0034 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0034, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your

document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application the intended service of the vessel ANGEL is:

—*Intended Commercial Use of Vessel:* ''Sail Charters''

—Geographic Region Including Base of Operations: ''California'' (Base of Operations: Marina Del Rey, CA)

—*Vessel Length and Type:* 30′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0034 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0034 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12677 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0116]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BUSINESS AS USUAL (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0116 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0116 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0116, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on

submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel BUSINESS AS USUAL is:

—*Intended Commercial Use of Vessel:* ''Will be using this vessel for passenger tour charters''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Miami, FL)
—*Vessel Length and Type*: 57′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0116 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0116 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12717 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0095]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SANTA CHIARA (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0095 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0095 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0095, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on

submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SANTA CHIARA is:

—*Intended Commercial Use of Vessel:* ''Sunset cruises''
—*Geographic Region Including Base of Operations:* ''Florida and New York'' (Base of Operations: Tierra Verde, FL)
—*Vessel Length and Type:* 40′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0095 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0095 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12715 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0075]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CLERMONT (Motor Yacht); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0075 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0075 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0075, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel CLERMONT is:

—*Intended Commercial Use of Vessel:* ''Day charters for up to 12 guests''
—*Geographic Region Including Base of Operations:* ''Florida, Massachusetts, Rhode Island, & New York'' (Base of Operations: Fort Lauderdale, FL)
—*Vessel Length and Type:* 60′ Motor Yacht

The complete application is available for review identified in the DOT docket as MARAD 2021–0075 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0075 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12628 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0037]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FIN ALY (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0037 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0037 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0037, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel FIN ALY is:

—*Intended Commercial Use of Vessel:* ''Carrying of passengers for chartered cruises.''
—*Geographic Region Including Base of Operations:* ''Northeast/New England region: MA, RI, CT, ME, NH, NY'' (Base of Operations: Hanover MA)
—*Vessel Length and Type:* 35′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0037 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0037 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12680 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0079]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MERCY, MERCY ME (Motor); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0079 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0079 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0079, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MERCY, MERCY ME is:

—*Intended Commercial Use of Vessel:* ''recreational boat charters around New York City''

—*Geographic Region Including Base of Operations:* ''New York'' (Base of Operations: New York Harbor, Long Island Sound)

—*Vessel Length and Type:* 40′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0079 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0079 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12631 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0043]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: BLUE MIND (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0043 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0043 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0043, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel BLUE MIND is:

—*Intended Commercial Use of Vessel:* ''Sailing Instruction.''

—*Geographic Region Including Base of Operations:* ''Connecticut'' (Base of Operations: Branford, CT)

—*Vessel Length and Type:* 39′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0043 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov.,* keyword search MARAD–2021–0043 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12685 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0035]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: AKULA (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0035 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0035 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0035, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the

intended service of the vessel AKULA is:

—*Intended Commercial Use of Vessel:* ''Small passenger charters''
—*Geographic Region Including Base of Operations:* ''California for high end private day charters to Malibu and Catalina Island.'' (Base of Operations: Marina del Rey, CA)
—*Vessel Length and Type:* 60.7′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0035 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0035 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12678 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0041]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: DREAMER (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0041 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0041 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0041, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel DREAMER is:

—*Intended Commercial Use of Vessel:* ''Day and Occasional overnight Charters to individuals or corporations.''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: St. Petersburg, FL)

—*Vessel Length and Type:* 58′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0041 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0041 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12684 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0031]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: ATHINA (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0031 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0031 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0031, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel ATHINA is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire. Day/Sunset Charters.''
—*Geographic Region Including Base of Operations:* ''Michigan—Great Lakes'' (Base of Operations: Harrison Township, MI)
—*Vessel Length and Type:* 44.5′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD 2021–0031 at *http://www.regulations.gov.* Interested parties may comment on the effect this action

may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0031 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12675 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0022]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FRECKLED PARROT (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0022 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0022 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0022, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel FRECKLED PARROT is:

—*Intended Commercial Use of Vessel:* ''Captained charter day sails, sunset sails and overnight sails for visitors to the Hampton Roads Virginia area.''

—*Geographic Region Including Base of Operations:* ''Virginia'' (Base of Operations: Norfolk, VA)

—*Vessel Length and Type:* 44′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD 2021–0022 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly

adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0022 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12637 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0025]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CRIMSON DYNASTY (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0025 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0025 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0025, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel CRIMSON DYNASTY is:

—*Intended Commercial Use of Vessel:* ''Coastwise''
—*Geographic Region Including Base of Operations:* ''East Coast, Gulf Coast'' (Base of Operations: Sarasota, FL)
—*Vessel Length and Type:* 48′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD 2021–0025 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0025 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12639 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0093]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MISS MOLLY (Sailboat); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0093 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0093 and follow the instructions for submitting comments.
- *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0093, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MISS MOLLY is:

—*Intended Commercial Use of Vessel:* ''Day Sailing Charters and Sunset Sails''

—*Geographic Region Including Base of Operations:* ''Rhode Island'' (Base of Operations: Tiverton, RI)

—*Vessel Length and Type:* 55.3′ Sailboat

The complete application is available for review identified in the DOT docket as MARAD 2021–0093 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected

on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0093 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12713 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0038]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: EXPRESSO (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0038 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0038 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0038, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Russell Haynes, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel EXPRESSO is:

—*Intended Commercial Use of Vessel:* ''Charter''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Marina del Rey, CA)

—*Vessel Length and Type:* 61′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0038 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0038 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12681 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0021]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: MONARC (Motor Vessel); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0021 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0021 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0021, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application the intended service of the vessel MONARC is:

—*Intended Commercial Use of Vessel:* ''Recreational Charters''

—*Geographic Region Including Base of Operations:* ''Rhode Island, Florida, Delaware and New York'' (Base of Operations: Newport, RI)

—*Vessel Length and Type:* 78.8′ Motor Vessel

The complete application is available for review identified in the DOT docket as MARAD 2021–0021 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0021 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for

new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12636 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0024]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: CARPE VENTUS II (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0024 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0024 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0024, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov*.

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel CARPE VENTUS II is:

—*Intended Commercial Use of Vessel:* ''Private Vessel Charters, Passengers Only''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida (Excluding Gulf Coast), California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: Marina del Rey, CA)

—*Vessel Length and Type:* 55.8′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD–2021–0024 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach

additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0024 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Authority:** 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12638 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0090]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KOLOHE (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0090 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0090 and follow the instructions for submitting comments.
- *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0090, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel KOLOHE is:

—*Intended Commercial Use of Vessel:* ''Kolohe intends to be used for ASA Certification Courses and Private Instruction. In addition, Kolohe intends to be used for crewed luxury charters, limited to a maximum of 6 passengers''

—*Geographic Region Including Base of Operations:* ''Hawaii'' (Base of Operations: Waimanalo, HI)

—*Vessel Length and Type:* 47′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD–2021–0090 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise

comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0090 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12710 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. MARAD–2021–0091]**

### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: Vessel MARTES (Catamaran); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before July 16, 2021.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD–2021–0091 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0091 and follow the instructions for submitting comments.
- *Mail or Hand Delivery*: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0091, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Note:* If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

*Instructions:* All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel MARTES is:

—*Intended Commercial Use of Vessel:* ''Charter''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Marina del Rey, CA)

—*Vessel Length and Type:* 32′ Catamaran

The complete application is available for review identified in the DOT docket as MARAD 2021–0091 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**Public Participation**

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0091 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

**Privacy Act**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2021–12711 Filed 6–15–21; 8:45 am]

**BILLING CODE 4910–81–P**

## U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### Notice of Open Public Meetings

**AGENCY:** U.S.-China Economic and Security Review Commission.

**ACTION:** Notice of open public meetings.

**SUMMARY:** Notice is hereby given of meetings of the U.S.-China Economic and Security Review Commission to review and edit drafts of the 2021 Annual Report to Congress. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on the ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold public meetings to review and edit drafts of the 2021 Annual Report to Congress.

**DATES:** The meetings are scheduled for Wednesday, June 30, 2021, from 9:00 a.m. to 5:00 p.m..; Thursday, August 5, 2021, from 9:00 a.m. to 5:00 p.m.; Thursday, September 9, 2021, from 9:00 a.m. to 5:00 p.m.; and Wednesday, October 6, 2021, from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** The June, August, and September sessions will be held in the Hall of the States, Room 233 located at 444 North Capitol Street NW, Washington, DC 20001. The October session will be held in the Hall of the States, Room 333, located at 444 North Capitol Street NW, Washington, DC 20001. Public seating is limited and will be available on a ''first-come, first-served'' basis. *Reservations are not required to attend the meetings.*

**FOR FURTHER INFORMATION CONTACT:** Any member of the public seeking further information concerning the meetings should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *jcunningham@uscc.gov. Reservations are not required to attend the meetings.*

*ADA Accessibility:* For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham at 202–624–1496, or via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

**SUPPLEMENTARY INFORMATION:** *Purpose of Meeting:* Pursuant to the Commission's mandate, members of the Commission will meet to review and edit drafts of the 2021 Annual Report to Congress. The Commission is subject to the Federal Advisory Committee Act (FACA) with the enactment of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 that was signed into law on November 22, 2005 (Pub. L. 109–108). In accordance with FACA, the Commission's meetings to make decisions concerning the substance and recommendations of its 2021 Annual Report to Congress are open to the public.

*Topics to Be Discussed:* Editing and review sessions will cover material prepared for the 2021 Annual Report, including: a review of economics, trade, security and foreign affairs developments in 2021; U.S.-China relations at the Chinese Communist Party's centennial; China in Latin America and the Caribbean; the Chinese Communist Party's economic ambitions; U.S. investment in China's capital markets and military industrial complex; China's nuclear capabilities, posture, and proliferation; Taiwan; and Hong Kong.

*Required Accessibility Statement:* These meetings will be open to the public. The Commission may recess the meetings to address administrative issues in closed session. The Commission will also recess the meetings around noon for a lunch break. At the beginning of the lunch break, the Chairman will announce what time the meetings will reconvene.

*Authority:* Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: June 10, 2021.

**Daniel W. Peck,**

*Executive Director, U.S.-China Economic and Security Review Commission.*

[FR Doc. 2021–12575 Filed 6–15–21; 8:45 am]

**BILLING CODE 1137–00–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0688]**

### Agency Information Collection Activity Under OMB Review: VAAR 832.202–04, Security for Government Financing

**AGENCY:** Office of Acquisition and Logistics, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of Acquisition and Logistics (OAL), 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 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.* 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. 2900–0688.''

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0688'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* Public Law 104–13; 44 U.S.C. 3501–3521.

*Title:* Department of Veterans Affairs Acquisition Regulation (VAAR)832.202–4, Security for Government Financing.

*OMB Control Number:* 2900–0688.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The information that is gathered under VAAR 832.202–4 will be used by the VA contracting officer to assess whether or not the contractor's overall financial condition represents adequate security to warrant paying the contractor in advance. FAR subpart 32.2 authorizes the use of certain types of Government financing on commercial item purchases. 41 United States Code (U.S.C.) 255(f) requires the Government to obtain adequate security for Government financing. However, FAR 32.202–4(a)(2) provides that, subject to agency regulations, the contracting officer may determine that an offeror's financial condition is adequate security. VAAR 832.202–4 Security for Government Financing specifies the type of information that the contracting officer may obtain to determine whether or not the offeror's financial condition constitutes adequate security.

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 85 FR 60 on March 31, 2021, page 16845.

*Affected Public:* Business or other for profit.

*Estimated Annual Burden:* 63 hours.

*Estimated Average Burden per Respondent:* 60 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 21.

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. 2021–12655 Filed 6–15–21; 8:45 am]

**BILLING CODE 8320–01–P**


# FEDERAL REGISTER

Vol. 86 Wednesday,
No. 114 June 16, 2021

Part II

## Nuclear Regulatory Commission

10 CFR Parts 15, 170, and 171
Revision of Fee Schedules; Fee Recovery for Fiscal Year 2021; Final Rule

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 15, 170, and 171**

**[NRC–2018–0292]**

**RIN 3150–AK24**

## Revision of Fee Schedules; Fee Recovery for Fiscal Year 2021

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Nuclear Energy Innovation and Modernization Act (NEIMA), which, beginning with fiscal year (FY) 2021, requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee-recovery requirement. In addition, the NRC is also making improvements associated with fee invoicing to implement provisions of NEIMA.

**DATES:** This final rule is effective on August 16, 2021.

**ADDRESSES:** Please refer to Docket ID NRC–2018–0292 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0292. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. For the convenience of the reader, the ADAMS accession numbers and instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section of this document.

**FOR FURTHER INFORMATION CONTACT:** Anthony Rossi, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7341; email: *Anthony.Rossi@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

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## I. Background; Statutory Authority

### *A. Statutory Authority*

Revised Fee-Recovery Framework for FY 2021 and Subsequent Fiscal Years

The NRC is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement Public Law 115–439, NEIMA (42 U.S.C. 2215). The NEIMA fee-related changes, effective October 1, 2020, include (1) repealing the prior fee-recovery framework and replacing it with a revised framework and (2) requirements to improve the accuracy of invoices for service fees.

Effective October 1, 2020, NEIMA repealed Section 6101 of the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90) (42 U.S.C. 2214), and put in place a revised fee-recovery framework for FY 2021 and subsequent fiscal years, requiring the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities. For FYs 2005 through 2020, OBRA–90 required the NRC to recover through fees approximately 90 percent of its budget authority for the fiscal year, less amounts for the activities excluded from fee recovery under OBRA–90 or other legislation. The 10 percent of the remaining budget authority not recovered through fees was historically referred to as fee-relief activities. In this final rule, the NRC has established a revised fee-recovery framework, which eliminates the 10 percent limit on fee-relief activities. Accordingly, the NRC will no longer provide a fee-relief credit (when the amount budgeted for fee-relief activities is less than the 10 percent threshold, which would have decreased annual fees for licensees) or assess a fee-relief surcharge (when the amount budgeted for fee-relief activities is greater than the 10 percent threshold, which would have increased annual fees for licensees) as part of the calculation of annual fees for each licensee fee class.

In FY 2021, the NRC's fee regulations are primarily governed by two laws: (1) The Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and (2) NEIMA (42 U.S.C. 2215). The IOAA authorizes and encourages Federal agencies to recover—to the fullest extent possible—costs attributable to services provided to identifiable recipients. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under Section 102(b)(1)(B) of NEIMA, ''excluded activities'' include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the NRC's mission, and a nuclear science and engineering grant program.

In FY 2021, the fee-relief activities identified by the Commission are consistent with prior final fee rules and include Agreement State oversight, regulatory support to Agreement States, medical isotope production infrastructure, fee exemptions for non-profit educational institutions, costs not recovered from small entities under § 171.16(c) of title 10 of the *Code of Federal Regulations* (10 CFR), generic decommissioning/reclamation activities, the NRC's uranium recovery program and unregistered general licenses, potential U.S. Department of Defense Program Memorandum of Understanding activities (Military Radium-226), and non-military radium sites. In addition, for FY 2021, the Commission identified international activities, not including the resources for import and export licensing, as fee-relief activities to be excluded from the fee-recovery requirement.

Under NEIMA, the NRC must use its IOAA authority first to collect service

fees for NRC work that provides specific benefits to identifiable recipients (such as licensing work, inspections, and special projects). The NRC's regulations in 10 CFR part 170, ''Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended,'' explain how the agency collects service fees from specific beneficiaries. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses ''annual fees'' under 10 CFR part 171, ''Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,'' to recover the remaining amount necessary to comply with NEIMA.

In addition, Section 102(b)(3)(B)(i) of NEIMA establishes a new cap for the annual fees charged to operating reactor licensees; under this provision, the annual fee for an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the FY 2015 final fee rule (80 FR 37432; June 30, 2015), adjusted for inflation (see Section II, Discussion, ''FY 2021 Fee Collection—Revised Annual Fees,'' of this final rule).

*B. Accurate Invoicing*

Section 102(d) of NEIMA requires three sets of actions related to NRC invoices for service fees assessed under 10 CFR part 170. First, as stated in Section 102(d)(1) of NEIMA, the NRC must ''ensure appropriate review and approval prior to the issuance of invoices'' for service fees. Second, as stated in Section 102(d)(2) of NEIMA, the NRC must ''develop and implement processes to audit invoices [for 10 CFR part 170 service fees] to ensure accuracy, transparency, and fairness.'' Third, as stated in Section 102(d)(3) of NEIMA, the NRC is required to ''modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices'' for service fees.

The NRC developed and implemented process improvements to ensure accurate invoicing for the first two actions. First, in July 2019, the NRC implemented a new agencywide process to standardize the validation of fees, which fully satisfies Section 102(d)(1) and partially addresses Section 102(d)(2) of NEIMA. The new standardized process improved accountability and oversight within the NRC to ensure that fee billing data is correct before appearing on a licensee's invoice. Standardizing the fee validation process defines roles and responsibilities for performing fee billing validation and certification; this standardization process also improves accountability and internal controls by adding management oversight to improve the accuracy of fee billing data. The NRC's new process will lead to improved internal and external auditing of service fee invoices to ensure accuracy, transparency, and fairness of invoices. The process requires offices with fee billable charges to regularly review and certify hours and costs to validate the charges before the NRC sends a bill for service fees. On an annual basis, external financial statement auditors will conduct an audit of a sample of invoices to determine whether the NRC is accurately invoicing in accordance with the NRC's fee schedules. Therefore, the NRC's invoices will be reviewed and audited by both internal and external parties.

The second NEIMA accurate invoicing action also concerns the transparency and fairness of the overall billing process. The NRC is firmly committed to the application of fairness and equity in the assessment of fees. All 10 CFR part 170 service fees are reassessed and published in the **Federal Register** on a yearly basis. In January 2018, the NRC redesigned its invoices to add clarity and transparency for its stakeholders; new features included an invoice legend of NRC acronyms and the names of individual NRC staff and/or the contractor company, if applicable, who had performed the work associated with the charges were added. In addition, the NRC's staff hours and contractor costs were listed separately on invoices so the recipient could view the subtotals for the two different categories of costs. Finally, the NRC implemented a new data structure to more effectively account for and track all billable work at the project level. The structure included a data element called an Enterprise Project Identifier (EPID), which provides useful details regarding the type of project or work that is being billed. Inspection report numbers were converted to EPIDs to provide more information, and descriptions of inspection activities were added to the invoice. Using this data structure enabled the NRC's licensees and other persons assessed service fees to identify how many hours are being expended on each of the various activities within a project. To further these efforts, the NRC standardized its Cost Activity Codes (CACs) for all agency activities to clearly provide licensees with consistent descriptions of the work being performed across licensing actions, inspections, and over multiple dockets. Invoices for service fees are now presented in a more useful and readable manner and hours and costs are no longer commingled. As a result, the NRC's invoices provide stakeholders greater transparency regarding fees.

In addition, in October 2019, the NRC released an electronic billing (eBilling) system. This public-facing, web-based application provides persons assessed service fees, including licensees, immediate delivery of NRC invoices, customizable email notifications, the capability to view and analyze invoice details, and access to the U.S. Department of the Treasury systems to pay invoices. The eBilling application provides persons assessed service fees, including licensees, increased billing process transparency and has increased applicant and licensee confidence in the assessed fees and charges.

To address the third action, the NRC is modifying the regulations under 10 CFR chapter I to provide a standard process for licensees and applicants to efficiently dispute or otherwise seek review and correction of errors in invoices for services fees (see Section II, Discussion, ''FY 2021—Policy Changes,'' of this final rule).

## II. Discussion

*FY 2021 Fee Collection—Overview*

The NRC is issuing this FY 2021 final fee rule based on the Consolidated Appropriations Act, 2021 (the enacted budget). The final fee rule reflects a total budget authority in the amount of $844.4 million, a decrease of $11.2 million from FY 2020. As explained previously, certain portions of the NRC's total budget authority for the fiscal year are excluded from NEIMA's fee-recovery requirement under Section 102(b)(1)(B) of NEIMA. Based on the FY 2021 enacted budget, these exclusions total $123.0 million, consisting of $91.2 million for fee-relief activities, $17.7 million for advanced reactor regulatory infrastructure activities, $11.7 million for generic homeland security activities, $1.2 million for waste incidental to reprocessing activities, and $1.2 million for Inspector General services for the Defense Nuclear Facilities Safety Board. Table I summarizes the excluded activities for the FY 2021 final rule.

TABLE I—EXCLUDED ACTIVITIES

[Dollars in millions]

| | FY 2021 final rule |
|---|---|
| Fee-Relief Activities: | |
| International activities (not including the resources for import and export licensing) | $24.7 |
| Agreement State oversight | 10.4 |
| Medical isotope production infrastructure | 7.0 |
| Fee exemption for nonprofit educational institutions | 9.3 |
| Costs not recovered from small entities under 10 CFR 171.16(c) | 7.8 |
| Regulatory support to Agreement States | 12.3 |
| Generic decommissioning/reclamation activities (not related to the operating power reactors and spent fuel storage fee classes) | 14.9 |
| Uranium recovery program and unregistered general licensees | 3.7 |
| Potential Department of Defense remediation program Memorandum of Understanding activities | 1.0 |
| Non-military radium sites | 0.2 |
| Subtotal Fee-Relief Activities | 91.2 |
| Activities under Section 102(b)(1)(B)(ii) of NEIMA (Generic Homeland Security activities, Waste Incidental to Reprocessing activities, and the Defense Nuclear Facilities Safety Board) | 14.1 |
| Advanced reactor regulatory infrastructure activities | 17.7 |
| Total Excluded Activities | 123.0 |

After accounting for the exclusions from the fee-recovery requirement and net billing adjustments (*i.e.,* for FY 2021 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2021 for prior year invoices and current year collections made for the termination of one operating power reactor), the NRC must recover approximately $708.0 million in fees in FY 2021. Of this amount, the NRC estimates that $190.6 million will be recovered through 10 CFR part 170 service fees and approximately $517.4 million will be recovered through 10 CFR part 171 annual fees. Table II summarizes the fee-recovery amounts for the FY 2021 final fee rule using the enacted budget and takes into account the budget authority for excluded activities and net billing adjustments. For all information presented in the following tables, individual values may not sum to totals due to rounding. Please see the work papers (ADAMS Accession No. ML21119A024) for actual amounts.

In FY 2021, the explanatory statement associated with the Consolidated Appropriations Act, 2021, also includes direction for the NRC to use $35.0 million in prior-year unobligated carryover funds, including $16.0 million for the University Nuclear Leadership Program, which replaced the Integrated University Program. The NRC does not assess fees in the current fiscal year for any carryover funds because, consistent with the requirements of NEIMA, fees are calculated based on the budget authority enacted for the current fiscal year and fees were already assessed in the fiscal year in which the carryover funds were appropriated.

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS [1]

[Dollars in millions]

| | FY 2021 final rule |
|---|---|
| Total Budget Authority | $844.4 |
| Less Budget Authority for Excluded Activities: | −123.0 |
| Balance | 721.4 |
| Fee Recovery Percent | 100 |
| Total Amount to be Recovered: | 721.4 |
| Less Estimated Amount to be Recovered through 10 CFR Part 170 Fees | −190.6 |
| Estimated Amount to be Recovered through 10 CFR Part 171 Fees | 530.8 |
| 10 CFR Part 171 Billing Adjustments: | |
| Unpaid Current Year Invoices (estimated) | 2.1 |
| Less Current Year Collections from a Terminated Reactor—Indian Point Nuclear Generating, Unit 2 in FY 2020 and Indian Point Nuclear Generating, Unit 3 in FY 2021 | −2.7 |
| Less Payments Received in Current Year for Previous Year Invoices (estimated) | −12.8 |
| Adjusted Amount to be Recovered through 10 CFR Parts 170 and 171 Fees | 708.0 |
| Adjusted 10 CFR Part 171 Annual Fee Collections Required | $517.4 |

[1] For each table, numbers may not add due to rounding.

*FY 2021 Fee Collection—Professional Hourly Rate*

The NRC uses a professional hourly rate to assess fees under 10 CFR part 170 for specific services it provides. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for: (1) Mission-direct program salaries and benefits, (2) mission-indirect program support, and (3) agency support (corporate support and the Inspector General). The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct full-time equivalent (FTE) converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\text{Professional Hourly Rate} = \frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \frac{\$732.2 \text{ million}}{1{,}684 \times 1{,}510} = \$288$$

For FY 2021, the NRC is increasing the professional hourly rate from $279 to $288. The 3.2 percent increase in the FY 2021 professional hourly rate is primarily due to a 2.1 percent increase in budgetary resources of approximately $15.0 million. The increase in budgetary resources is, in turn, primarily due to an increase in salaries and benefits to support Federal pay raises for NRC employees. The anticipated decline in the number of mission-direct FTE compared to FY 2020 also contributed to the increase in the professional hourly rate. The professional hourly rate is inversely related to the mission-direct FTE amount; therefore, as the number of mission-direct FTE decrease the professional hourly rate can increase. The number of mission-direct FTE is expected to decline by 17, primarily due to: (1) The completion of probabilistic risk assessment reviews related to lessons learned from the accident at Fukushima Dai-ichi in Japan; (2) the closure of Duane Arnold Energy Center (Duane Arnold); and (3) the reduced workload associated with significance determinations, operating experience evaluations, and generic communications development.

The FY 2021 estimate for annual mission-direct FTE productive hours is 1,510 hours, which is unchanged from FY 2020. This estimate, also referred to as the productive hours assumption, reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This estimate, therefore, excludes hours charged to annual leave, sick leave, holidays, training, and general administrative tasks. Table III shows the professional hourly rate calculation methodology. The FY 2020 amounts are provided for comparison purposes.

TABLE III—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

| | FY 2020 final rule | FY 2021 final rule |
|---|---|---|
| Mission-Direct Program Salaries & Benefits | $314.6 | $335.3 |
| Mission-Indirect Program Support | $110.8 | $113.2 |
| Agency Support (Corporate Support and the IG) | $291.5 | $283.7 |
| Subtotal | $716.9 | $732.2 |
| Less Offsetting Receipts [2] | $0.0 | $0.0 |
| Total Budgeted Resources Included in Professional Hourly Rate | $716.9 | $732.2 |
| Mission-Direct FTE (Whole numbers) | 1,701 | 1,684 |
| Annual Mission-Direct FTE Productive Hours (Whole numbers) | 1,510 | 1,510 |
| Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours) | 2,568,510 | 2,542,840 |
| Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers) | $279 | $288 |

*FY 2021 Fee Collection—Flat Application Fee Changes*

The NRC is amending the flat application fees it charges in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised professional hourly rate of $288. The NRC charges these fees to applicants for materials licenses and other regulatory services, as well as to holders of materials licenses. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2021. As part of its calculations, the NRC analyzes the actual hours spent performing licensing actions and estimates the five-year average of professional staff hours that are needed to process licensing actions as part of its biennial review of fees; these actions are required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C.

[2] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in the Office of Management and Budget (OMB) Circular A–25, *User Charges.* The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for indemnity activities are allocated under the Licensing Actions and Research and Test Reactors products within the Operating Reactors business line.

902(a)(8)). The NRC performed this review in FY 2021 and will perform this review again in FY 2023. The biennial review adjustments and the higher professional hourly rate of $288 are the primary reasons for the increase in flat application fees (see the work papers).

In order to simplify billing, the NRC rounds these flat fees to a minimal degree. Specifically, the NRC rounds these flat fees (up or down) in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The flat fees are applicable for import and export licensing actions (see fee categories K.1. through K.5. of § 170.21 and fee categories 15.A. through 15.R. of § 170.31), as well as certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2021 final fee rule will be subject to the revised fees in the final rule.

*FY 2021 Fee Collection—Low-Level Waste Surcharge*

As in prior years, the NRC is assessing a generic low-level waste (LLW) surcharge of $3.4 million. Disposal of LLW occurs at commercially-operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC is allocating this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE) Manifest Information Management System. This database contains information on total LLW volumes disposed of by four generator classes: Academic, industrial, medical, and utility. The ratio of waste volumes disposed of by these generator classes to total LLW volumes disposed over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and the materials users fee classes. The materials users fee class portion is adjusted to account for the large percentage of materials licensees that are licensed by the Agreement States rather than the NRC.

Table IV shows the allocation of the LLW surcharge and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF LLW SURCHARGE FY 2021

[Dollars in millions]

| Fee classes | LLW Surcharge | |
|---|---|---|
| | Percent | $ |
| Operating Power Reactors | 87.5 | $2.941 |
| Spent Fuel Storage/Reactor Decommissioning | 0.0 | 0.000 |
| Non-Power Production or Utilization Facilities | 0.0 | 0.000 |
| Fuel Facilities | 9.9 | 0.333 |
| Materials Users | 2.6 | 0.087 |
| Transportation | 0.0 | 0.000 |
| Rare Earth Facilities | 0.0 | 0.000 |
| Uranium Recovery | 0.0 | 0.000 |
| Total | 100.0 | 3.361 |

*FY 2021 Fee Collection—Revised Annual Fees*

In accordance with SECY–05–0164, ''Annual Fee Calculation Method'' (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. ''Rebaselining'' entails analyzing the budget in detail and then allocating the budgeted resources to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC is revising its annual fees in §§ 171.15 and 171.16 to recover approximately 100 percent of the NRC's FY 2021 enacted budget (less the budget authority for excluded activities and the estimated amount to be recovered through 10 CFR part 170 fees). The total estimated 10 CFR part 170 collections for this final rule are $190.6 million, which is a decrease of $29.6 million from the FY 2020 final rule (see the specific fee class sections for a discussion of this decrease). The NRC, therefore, must recover $517.4 million through annual fees from its licensees, which is an increase of $9.5 million from the FY 2020 final rule.

Table V shows the rebaselined fees for FY 2021 for a sample of licensee categories. The FY 2020 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

[Actual dollars]

| Class/category of licenses | FY 2020 final annual fee ($) | FY 2021 final annual fee ($) |
|---|---|---|
| Operating Power Reactors | $4,621,000 | $4,749,000 |
| + Spent Fuel Storage/Reactor Decommissioning | 188,000 | 237,000 |
| Total, Combined Fee | 4,809,000 | 4,986,000 |
| Spent Fuel Storage/Reactor Decommissioning | 188,000 | 237,000 |
| Non-Power Production or Utilization Facilities | 81,300 | 80,000 |
| High Enriched Uranium Fuel Facility (Category 1.A.(1)(a)) | 5,067,000 | 4,643,000 |
| Low Enriched Uranium Fuel Facility (Category 1.A.(1)(b)) | 1,717,000 | 1,573,000 |

TABLE V—REBASELINED ANNUAL FEES—Continued

[Actual dollars]

| Class/category of licenses | FY 2020 final annual fee ($) | FY 2021 final annual fee ($) |
|---|---|---|
| Uranium Enrichment (Category 1.E) | 2,208,000 | 2,023,000 |
| $UF_6$ Conversion and Deconversion Facility (Category 2.A.(1) | 510,000 | 467,000 |
| Basic *In Situ* Recovery Facilities (Category 2.A.(2)(b)) | 49,200 | 47,200 |
| Typical Users: | | |
| Radiographers (Category 3O) | 29,900 | 29,100 |
| All Other Specific Byproduct Material Licensees (Category 3P) | 9,700 | 9,900 |
| Medical Other (Category 7C) | 14,800 | 16,800 |
| Device/Product Safety Evaluation—Broad (Category 9A) | 13,800 | 17,900 |

The work papers that support this final rule show in detail how the NRC allocates the budgeted resources for each class of licensees and calculates the fees.

Paragraphs a. through h. of this section describe the budgeted resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers for this final rule.

a. Operating Power Reactors

The NRC will collect $441.7 million in annual fees from the operating power reactors fee class in FY 2021, as shown in Table VI. The FY 2020 operating power reactors fees are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources | $623.9 | $611.8 |
| Less estimated 10 CFR part 170 receipts | −186.7 | −161.6 |
| Net 10 CFR part 171 resources | 437.2 | 450.2 |
| Allocated generic transportation | 0.2 | 0.3 |
| Fee-relief adjustment | −1.2 | N/A |
| Allocated LLW surcharge | 3.1 | 2.9 |
| Billing adjustment | 2.4 | −9.1 |
| Adjustment: Estimated current year collections from terminated reactor (Indian Point Generating, Unit 2 in FY 2020 and Indian Point Generating, Unit 3 in FY 2021) | −2.7 | −2.7 |
| Total required annual fee recovery | 439.0 | 441.7 |
| Total operating reactors | 95 | 93 |
| Annual fee per reactor | $4.621 | $4.749 |

In comparison to FY 2020, the FY 2021 annual fee for the operating power reactors fee class is increasing primarily due to the following: (1) The decline in 10 CFR part 170 estimated billings; (2) the reduction in the total number of operating power reactors due to the closure of Duane Arnold and Indian Point Energy Center (Indian Point Unit 3); and (3) the absence of the fee-relief credit that was provided in FY 2020 as part of the fee-relief adjustment. The increase in the annual fee for the operating power reactors fee class is partially offset due to the following: (1) The decrease in budgeted resources; (2) the 10 CFR part 171 billing adjustment that was included in the operating power reactors fee class calculation due to the deferral of annual fees and fees for services due to the coronavirus disease (COVID–19) pandemic; and (3) the current year collection adjustment due to the shutdown of Indian Point Unit 3. These components are discussed in the following paragraphs.

The 10 CFR part 170 estimated billings declined primarily due to the following: (1) The decrease due to the plant closures; (2) the completion of construction activities at Vogtle Electric Generating Plant, Unit 3 (Vogtle Unit 3); (3) the completion of the NuScale small modular reactor (SMR) design certification review; and (4) the impact of continued travel restrictions and limited on-site presence on inspection activities due to the COVID–19 pandemic. This decrease in the 10 CFR part 170 estimated billings is partially offset by increased work to support the following: (1) The review of the Oklo Power LLC combined license (COL) application for the Aurora micro reactor, which was docketed in June 2020; and (2) rescheduled inspection activities that were deferred due to the COVID–19 pandemic.

In addition, as a result of the revised fee-recovery framework under NEIMA, the FY 2021 annual fee increased due to the absence of the fee-relief credit that was provided in FY 2020 as part of the fee-relief adjustment. Because NEIMA eliminated the approximately 90 percent requirement for fee recovery and, in turn, the 10 percent limit on fee-relief activities, the NRC will no longer provide a fee-relief credit or assess a fee-relief surcharge as part of the calculation of annual fees for each licensee fee class.

The increase in the annual fee is partially offset by a decline in FTEs associated with changes in workload, including, but not limited to, the following: (1) The completion of probabilistic risk assessment reviews related to lessons learned from the

accident at Fukushima Dai-ichi in Japan; (2) the closure of Duane Arnold; (3) reduced workload associated with significance determinations, operating experience evaluations, and generic communications development; (4) the completion of the NuScale SMR design certification review; (5) a decrease in licensing actions and reduced demand for operator licensing and vendor inspection work resulting from the completion of construction of Vogtle Unit 3; and (6) decreases in research workload in areas of flooding, high energy arc faulting testing, and the near completion of the Level 3 probabilistic risk assessment project. The decrease in the budgeted resources is offset by an increase for certain contract costs due to a reduction in the utilization of prior-year unobligated carryover funding and an increase in the fully-costed FTE rate compared to FY 2020.

In addition, the increase in the annual fee is partially offset by the $9,143,303 billing adjustment that was included in the operating power reactors calculation due to the deferral of annual fees and fees for services due to the COVID–19 pandemic, and a $2,700,000 current year collection adjustment in the operating power reactors fee class calculation due to the shutdown of Indian Point Unit 3.

The fee-recoverable budgeted resources are divided equally among the 93 licensed operating power reactors, a decrease of two operating power reactors compared to FY 2020 due to the closure of Duane Arnold and Indian Point Unit 3, resulting in an annual fee of $4,749,000 per reactor. Additionally, each licensed operating power reactor is assessed the FY 2021 spent fuel storage/reactor decommissioning annual fee of $237,000 (see Table VII and the discussion that follows). The combined FY 2021 annual fee for each operating power reactor is $4,986,000.

The NRC included an estimate of the operating power reactors annual fee in Appendix C, ''Estimated Operating Power Reactors Annual Fee,'' of the FY 2021 Congressional Budget Justification (CBJ), with the intent to increase transparency with stakeholders. The NRC developed this estimate based on the staff's allocation of the FY 2021 budget request to fee classes under 10 CFR part 170, and allocations within the operating power reactors fee class under 10 CFR part 171. In addition, the estimated annual fee assumed 93 operating power reactors in FY 2021 and applied various data assumptions from the FY 2019 final fee rule (84 FR 22331; May 17, 2019). Based on these allocations and assumptions, the operating power reactor annual fee included in the FY 2021 CBJ was estimated to be $4.8 million, approximately $0.6 million below the FY 2015 operating power reactors annual fee amount adjusted for inflation of $5.4 million. Collectively, these actions serve to mitigate impacts resulting from licensees leaving the fee class and help the NRC continue to develop budgets that account for a fee class with a declining number of licensees. Although the FY 2021 CBJ included the estimated operating power reactors annual fee, the assumptions made between budget formulation and the development of the FY 2021 final rule have changed, as shown in Table VI.

In FY 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water SMRs (81 FR 32617). Under the variable annual fee structure, an SMR's annual fee would be assessed as a function of its bundled licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2021 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC will collect $28.9 million in annual fees from 10 CFR part 50 power reactor licensees, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license, to recover the budgeted resources for the spent fuel storage/reactor decommissioning fee class in FY 2021, as shown in Table VII. The FY 2020 spent fuel storage/reactor decommissioning fees are shown for comparison purposes.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR SPENT FUEL STORAGE/REACTOR DECOMMISSIONING

[Dollars in millions]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources | $37.9 | $42.2 |
| Less estimated 10 CFR part 170 receipts | −15.9 | −13.8 |
| Net 10 CFR part 171 resources | 22.1 | 28.4 |
| Allocated generic transportation costs | 0.8 | 1.1 |
| Fee-relief adjustment | −0.1 | N/A |
| Billing adjustments | 0.1 | −0.6 |
| Total required annual fee recovery | 22.9 | 28.9 |
| Total spent fuel storage facilities | 122 | 122 |
| Annual fee per facility | $0.188 | $0.237 |

In comparison to FY 2020, the FY 2021 annual fee for the spent fuel storage/reactor decommissioning fee class is increasing primarily due to the increase in the budgeted resources and the decline in the 10 CFR part 170 estimated billings. This increase is partially offset by the 10 CFR part 171 billing adjustment that was included in the spent fuel storage/reactor decommissioning fee class calculation due to the deferral of annual fees and fees for services due to the COVID–19 pandemic. These components are discussed in the following paragraphs.

The budgeted resources for the spent fuel storage/reactor decommissioning fee class increased primarily to support the following: (1) Decommissioning activities associated with power reactors in decommissioning, including the transition of Duane Arnold from operation to the power reactor decommissioning program; and (2) waste research activities associated with accident tolerant fuel, high burnup, and enrichment extension fuels.

The 10 CFR part 170 estimated billings for FY 2021 decreased primarily due to the following: (1) A reduction in hours associated with the staff's review of applications for renewals and amendments for independent spent fuel storage installation (ISFSI) licenses and dry cask storage certificates of compliance (CoCs); (2) the near

completion of the staff's review of the Interim Storage Partners consolidated interim storage facility application; (3) the completion of certain follow-up inspections and other inspection activities for San Onofre Nuclear Generating Station; (4) the completion of licensing actions, partial site release requests, and a decrease in confirmatory survey work at multiple sites; and (5) the near completion of the license termination for the La Crosse Boiling Water Reactor. This decrease in the 10 CFR part 170 estimated billings is partially offset by increased work to support the following: (1) Inspection activities for ISFSI licenses and dry cask storage CoCs; (2) the staff's safety and environmental review of the Holtec HI–STORE consolidated interim storage facility application; (3) the staff's review of topical reports; and (4) decommissioning activities within the power reactor decommissioning program, including the review of decommissioning license amendment requests, exemption requests, and inspection activities at multiple sites.

The increase in the annual fee is partially offset by an approximate $0.6 million 10 CFR part 171 billing adjustment that was included in the spent fuel storage/reactor decommissioning calculation due to the deferral of annual fees and fees for services due to the COVID–19 pandemic.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in a FY 2021 annual fee of $237,000 per licensee.

c. Fuel Facilities

The NRC will collect $17.5 million in annual fees from the fuel facilities fee class in FY 2021, as shown in Table VIII. The FY 2020 fuel facilities fees are shown for comparison purposes.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources | $23.2 | $23.3 |
| Less estimated 10 CFR part 170 receipts | −6.8 | −7.3 |
| Net 10 CFR part 171 resources | 16.5 | 16.0 |
| Allocated generic transportation | 1.1 | 1.5 |
| Fee-relief adjustment | −0.1 | N/A |
| Allocated LLW surcharge | 0.4 | 0.3 |
| Billing adjustments | 0.1 | −0.4 |
| Total remaining required annual fee recovery | $18.0 | $17.5 |

In comparison to FY 2020, the FY 2021 annual fee for the fuel facilities fee class is decreasing primarily due to the increase in 10 CFR part 170 estimated billings and the 10 CFR part 171 billing adjustment that was included in the fuel facilities calculation due to the deferral of annual fees and fees for services due to the COVID–19 pandemic. The decrease in the annual fee is offset by an increase in the budgeted resources as discussed in the following paragraphs.

The 10 CFR part 170 estimated billings increased as a result of the following: (1) The increased workload to support the staff's review of a license amendment application associated with high assay low-enriched uranium and the associated security plans, and (2) the review of the Westinghouse environmental impact statement being developed for the license renewal application. As part of the final annual fee calculation, an approximate $0.4 million billing adjustment was included in the fuel facilities calculation due to the deferral of annual fees and fees for services due to the COVID–19 pandemic.

The decrease in the annual fee is offset, in part, by an increase in the resources for contract costs budgeted for the fuel facilities fee class primarily due to a reduction in the utilization of prior-year unobligated carryover compared to FY 2020.

The NRC will continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes that are conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are reflected in Table IX). The annual fees are then distributed across the fee class based on the regulatory effort assigned by the matrix. The effort factors in the matrix represent regulatory effort that is not recovered through 10 CFR part 170 fees (*e.g.,* rulemaking, guidance). Regulatory effort for activities that are subject to 10 CFR part 170 fees, such as the number of inspections, is not applicable to the effort factor.

In addition, the NRC has added an annual fee for fee category 1.A.(2), ''Limited Operations,'' in anticipation that the NRC may decide to issue a license amendment in the future that would move a licensee to the ''Limited Operations'' fee category from the 1.E, ''Uranium Enrichment'' fee category because the NRC has received an amendment application to a fuel facility license that, if granted, would authorize a significantly smaller operating facility.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2021

| Facility type (fee category) | Number of facilities | Effort factors | |
|---|---|---|---|
| | | Safety | Safeguards |
| High-Enriched Uranium Fuel (1.A.(1)(a)) | 2 | 88 | 91 |
| Low-Enriched Uranium Fuel (1.A.(1)(b)) | 3 | 70 | 21 |
| Limited Operations (1.A.(2)(a)) | 1 | 3 | 17 |
| Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)) | 0 | 0 | 0 |
| Hot Cell (and others) (1.A.(2)(c)) | 0 | 0 | 0 |

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2021—Continued

| Facility type (fee category) | Number of facilities | Effort factors | |
|---|---|---|---|
| | | Safety | Safeguards |
| Uranium Enrichment (1.E.) | 1 | 16 | 23 |
| $UF_6$ Conversion and Deconversion (2.A.(1)) | 1 | 7 | 2 |

In FY 2021, the total remaining amount of annual fees to be recovered, $17.5 million, is attributable to safety activities, safeguards activities, and the LLW surcharge. For FY 2021, the total budgeted resources to be recovered as annual fees for safety activities are $9.4 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percentage of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, $7.8 million, to each fee category based on its percentage of the total regulatory effort for safeguards activities. Finally, the fuel facilities fee class portion of the LLW surcharge—$0.3 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee for each facility is summarized in Table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES

[Actual dollars]

| Facility type (fee category) | FY 2020 final annual fee | FY 2021 final annual fee |
|---|---|---|
| High-Enriched Uranium Fuel (1.A.(1)(a)) | $5,067,000 | $4,643,000 |
| Low-Enriched Uranium Fuel (1.A.(1)(b)) | 1,717,000 | 1,573,000 |
| Facilities with limited operations (1.A.(2)(a)) | N/A | 1,037,000 |
| Gas Centrifuge Enrichment Demonstration (1.A.(2)(b)) | N/A | N/A |
| Hot Cell (and others) (1.A.(2)(c)) | N/A | N/A |
| Uranium Enrichment (1.E.) | 2,208,000 | 2,023,000 |
| $UF_6$ Conversion and Deconversion (2.A.(1)) | 510,000 | 467,000 |

d. Uranium Recovery Facilities

The NRC will collect $0.2 million in annual fees from the uranium recovery facilities fee class in FY 2021, as shown in Table XI. The FY 2020 uranium recovery facilities fees are shown for comparison purposes.

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources | $0.6 | $0.5 |
| Less estimated 10 CFR part 170 receipts | −0.4 | −0.3 |
| Net 10 CFR part 171 resources | 0.2 | 0.2 |
| Allocated generic transportation | N/A | N/A |
| Fee-relief adjustment | 0.0 | N/A |
| Billing adjustments | 0.0 | 0.0 |
| Total required annual fee recovery | 0.2 | 0.2 |

In comparison to FY 2020, the FY 2021 annual fee for the uranium recovery facilities fee class is decreasing primarily due to a decline in the budgeted resources because of an expected decrease in casework associated with uranium recovery policy issues, environmental review coordination activities, and guidance development.

The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA).[3] The annual fee assessed to DOE includes the resources specifically budgeted for the NRC's UMTRCA Title I and II activities, as well as 10 percent of the remaining budgeted resources for this fee class. The NRC described the overall methodology for determining fees for UMTRCA in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology. The DOE's UMTRCA annual fee is decreasing compared to FY 2020 due to an increase in the 10 CFR part 170 estimated billings for the anticipated workload increases at various DOE UMTRCA sites. The NRC assesses the remaining 90 percent of its

[3] Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from hazards associated with uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for weapons programs. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

budgeted resources to the remaining licensee in this fee class, as described in the work papers. This is reflected in Table XII:

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FACILITIES FEE CLASS

[Actual dollars]

| Summary of costs | FY 2020 final annual fee | FY 2021 final annual fee |
|---|---|---|
| DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses: | | |
| UMTRCA Title I and Title II budgeted resources less 10 CFR part 170 receipts | $114,577 | $111,536 |
| 10 percent of generic/other uranium recovery budgeted resources | 5,573 | 5,241 |
| 10 percent of uranium recovery fee-relief adjustment | −107 | N/A |
| Total Annual Fee Amount for DOE (rounded) | $120,000 | $117,000 |
| Annual Fee Amount for Other Uranium Recovery Licenses: | | |
| 90 percent of generic/other uranium recovery budgeted resources less the amounts specifically budgeted for UMTRCA Title I and Title II activities | $50,153 | $47,166 |
| 90 percent of uranium recovery fee-relief adjustment | −959 | N/A |
| Total Annual Fee Amount for Other Uranium Recovery Licenses | $49,194 | $47,166 |

Further, for any non-DOE licensees, the NRC will continue using a matrix to determine the effort levels associated with conducting generic regulatory actions for the different licensees in the uranium recovery facilities fee class; this is similar to the NRC's approach for fuel facilities, described previously. The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: Conventional uranium mills and heap leach facilities, uranium *in situ* recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (see the work papers). Currently, there is only one remaining non-DOE licensee, which is a basic *in situ* recovery facility. Table XIII displays the benefit factors for the non-DOE licensee in that fee category:

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

| Fee category | Number of licensees | Benefit factor per licensee | Total value | Benefit factor percent total |
|---|---|---|---|---|
| Conventional and Heap Leach mills (2.A.(2)(a)) | 0 | 0 | 0 | 0 |
| Basic *In Situ* Recovery facilities (2.A.(2)(b)) | 1 | 190 | 190 | 100.0 |
| Expanded *In Situ* Recovery facilities (2.A.(2)(c)) | 0 | 0 | 0 | 0 |
| Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4)) | 0 | 0 | 0 | 0 |
| Total | 1 | 190 | 190 | 100.0 |

The annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in Table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE; actual dollars]

| Facility type (fee category) | FY 2020 final annual fee | FY 2021 final annual fee |
|---|---|---|
| Conventional and Heap Leach mills (2.A.(2)(a)) | N/A | N/A |
| Basic *In Situ* Recovery facilities (2.A.(2)(b)) | $49,200 | $47,200 |
| Expanded *In Situ* Recovery facilities (2.A.(2)(c)) | N/A | N/A |
| Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4)) | N/A | N/A |

e. Non-Power Production or Utilization Facilities

The NRC will collect $0.320 million in annual fees from the non-power production or utilization facilities fee class in FY 2021, as shown in Table XV. The non-power production or utilization facilities fee class replaces the research and test reactor fee class from previous fiscal years. This revised fee class accounts for commercial non-power production and utilization facilities expected to be used for the production of medical isotopes. The final FY 2020 research and test reactors fees are shown for comparison purposes.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES

[Actual dollars]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources | $3,317,830 | $2,896,754 |
| Less estimated 10 CFR part 170 receipts | −3,030,000 | −2,576,000 |
| Net 10 CFR part 171 resources | 287,830 | 320,754 |
| Allocated generic transportation | 30,713 | 4,330 |
| Fee-relief adjustment | −6,183 | N/A |
| Billing adjustments | 12,980 | −4,391 |
| Total required annual fee recovery | 325,341 | 320,141 |
| Total non-power production or utilization facilities licenses | 4 | 4 |
| Total annual fee per license (rounded) | $81,300 | $80,000 |

In comparison to FY 2020, the budgetary resources for the non-power production or utilization facilities fee class is primarily decreasing with respect to the medical isotope production facilities due to the near completion of the activities associated with the staff's review of the operating license application for SHINE Medical Technologies, LLC (SHINE). In addition, the 10 CFR part 170 estimated billings are declining within the fee class as a result of delayed submittals associated with medical isotope production facilities by various applicants. The 10 CFR part 170 estimated billings associated with the four non-power production or utilization facilities licensees subject to annual fees increased to support the following: (1) Activities associated with the review of the GE Nuclear Test Reactor license renewal application; and (2) activities associated with the review of a complex license amendment for the National Institute of Standards and Technology Neutron Reactor.

The annual fee-recovery amount is divided equally among the four non-power production or utilization facilities licensees subject to annual fees and results in an FY 2021 annual fee of $80,000 for each licensee.

f. Rare Earth

The NRC has not allocated any budgeted resources to this fee class; therefore, the NRC is not assessing an annual fee for this fee class in FY 2021.

g. Materials Users

The NRC will collect $35.3 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70, as shown in Table XVI. The FY 2020 materials users fees are shown for comparison purposes.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources for licensees not regulated by Agreement States | $33.7 | $35.1 |
| Less estimated 10 CFR part 170 receipts | −1.0 | −1.0 |
| Net 10 CFR part 171 resources | 32.8 | 34.1 |
| Allocated generic transportation | 1.2 | 1.5 |
| Fee-relief adjustment | 0.0 | N/A |
| LLW surcharge | 0.0 | 0.1 |
| Billing adjustments | 0.1 | −0.4 |
| Total required annual fee recovery | $34.1 | $35.3 |

The formula for calculating 10 CFR part 171 annual fees for the various categories of materials users is described in detail in the work papers. Generally, the calculation results in a single annual fee that includes 10 CFR part 170 costs, such as amendments, renewals, inspections, and other licensing actions specific to individual fee categories.

The total annual fee recovery of $35.3 million for FY 2021 shown in Table XVI consists of $27.6 million for general costs and $7.7 million for inspection costs. To equitably and fairly allocate the $35.3 million required to be collected among approximately 2,500 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse fee categories. This fee calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

In comparison to FY 2020, annual fees are decreasing for 42 fee categories within the materials users fee class to reflect changes as a result of the biennial review of fees, which included an examination of the average professional hours for licensing and oversight activities. In addition, annual fees are increasing for 11 fee categories within the materials users fee class due to the following: (1) An increase in the fully-costed FTE rate compared to FY 2020; (2) an increase in the budgeted resources for contract costs due to a reduction in the utilization of prior-year unobligated carryover funding compared to FY 2020; (3) the realignment of budgeted resources that supports contract funding for general license tracking, the materials event database, and rulemaking information technology activities; (4) changes as a result of the biennial review of fees, which included an examination of the average professional hours for licensing and oversight activities; and (5) an

increase in generic transportation costs for materials users.

A constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of $27.6 million. To derive the constant multiplier, the general cost amount is divided by the sum of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.0 for FY 2021. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $288. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the $7.7 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the sum of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.43 for FY 2021. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. Please see the work papers for more detail about this classification.

The annual fee being assessed to each licensee also takes into account a share of approximately $0.087 million in LLW surcharge costs allocated to the materials users fee class (see Table IV, ''Allocation of LLW Surcharge, FY 2021,'' in Section II, ''Discussion,'' of this document). The annual fee for each fee category is shown in the revision to § 171.16(d).

h. Transportation

The NRC will collect $1.4 million in annual fees to recover generic transportation budgeted resources in FY 2021, as shown in Table XVII. The FY 2020 fees are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

| Summary fee calculations | FY 2020 final | FY 2021 final |
|---|---|---|
| Total budgeted resources | $7.2 | $8.3 |
| Less estimated 10 CFR part 170 receipts | −2.8 | −2.3 |
| Net 10 CFR part 171 resources | 4.4 | 5.9 |
| Less generic transportation resources | −3.4 | −4.5 |
| Fee-relief adjustment | 0.0 | N/A |
| Billing adjustments | 0.0 | −0.1 |
| Total required annual fee recovery | $1.0 | $1.4 |

In comparison to FY 2020, the annual fee for the transportation fee class is increasing primarily due to the following: (1) The decline in 10 CFR part 170 estimated billings related to delays in new amendment packages; and (2) an increase in the budgeted resources for contract costs due to a reduction in the utilization of prior-year unobligated carryover funding compared to FY 2020, an increase in the number and complexities of transportation package applications as a result of an increase in the number of power reactors in decommissioning, and the expanded use of accident tolerant fuels. The increase in the annual fee is partially offset by an approximate $0.1 million 10 CFR part 171 billing adjustment that was included in the transportation fee class calculation due to the deferral of annual fees and fees for services due to the COVID–19 pandemic.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Note that for the non-power production or utilization facilities fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although five CoCs benefit the entire non-power production or utilization facilities fee class, only 4 out of 31 non-power production or utilization facilities licensees are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to annual fees for the non-power production or utilization facilities fee class has been adjusted to 0.7 so these licensees are charged a fair and equitable portion of the total fees (see the work papers).

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2021

[Dollars in millions]

| Licensee fee class/DOE | Number of CoCs benefiting fee class or DOE | Percentage of total CoCs | Allocated generic transportation resources |
|---|---|---|---|
| Materials Users | 23.0 | 25.9 | 1.5 |
| Operating Power Reactors | 5.0 | 5.6 | 0.3 |
| Spent Fuel Storage/Reactor Decommissioning | 16.0 | 18.0 | 1.1 |
| Non-Power Production or Utilization Facilities | 0.7 | 0.7 | 0.0 |
| Fuel Facilities | 23.0 | 25.9 | 1.5 |
| Sub-Total of Generic Transportation Resources | 67.7 | 76.3 | 4.5 |

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2021—Continued

[Dollars in millions]

| Licensee fee class/DOE | Number of CoCs benefiting fee class or DOE | Percentage of total CoCs | Allocated generic transportation resources |
|---|---|---|---|
| DOE | 21.0 | 23.7 | 1.4 |
| Total | 88.7 | 100.0 | 5.9 |

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

*FY 2021—Policy Changes*

The NRC is making two policy changes for FY 2021:

*Process for Disputing Errors in Invoices for Service Fees*

Section 102(d)(3) of NEIMA requires the NRC to ''modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices'' for service fees. The NRC is implementing requirements for a standard method for licensees and applicants to efficiently dispute or seek review and correction of errors in invoices. The process being implemented is illustrated in the process map, ''NRC Form 529, Processing Dispute of Fees-For-Service Charges'' (ADAMS Accession No. ML20311A159). This process follows the established method for licensees and applicants to submit requests for the review of fees assessed under 10 CFR part 170 (ADAMS Accession No. ML20104C055). The NRC Form 529 will be available in the agency's eBilling system and on the agency's public website, and can be found under ADAMS Accession No. ML20339A673. Standard use of an NRC form and amendments to the current regulations in § 15.31 will increase efficiency by providing the licensees and applicants with clear guidelines and expectations for submitting a fee dispute. It also eliminates ambiguity regarding the appropriate information needed for the NRC to consider and make a determination on a fee dispute.

In response to NEIMA's requirement that the NRC modify its regulations to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in service fee invoices, the NRC is revising its regulations. Specifically the NRC is revising § 15.31, ''Disputed debts,'' with conforming amendments in §§ 15.37, ''Interest, penalties, and administrative costs,'' and 15.53, ''Reasons for suspending collection action,'' and changing the heading for § 170.51, ''Right to review and appeal of prescribed fees,'' to ''Right to dispute assessed fees.'' The NRC is also adding a new section, § 171.26, ''Right to dispute assessed fees,'' to 10 CFR part 171. These changes outline the interactions between the submitter and the NRC. The process will enhance understanding of the dispute process by setting out the process for submitting a fee dispute, the stages of the decisionmaking process while the dispute is under review, and the manner by which the NRC will notify a debtor after it makes a final determination on a dispute. Additionally, these amendments provide consistent terminology to differentiate fee disputes under 10 CFR part 15 from fee exemptions under 10 CFR parts 170 and 171.

*Assessment of Annual Fees for Future 10 CFR Part 50 Non-Power Production or Utilization Facility Licensees and for Small Modular Reactor Licensees*

The NRC is amending § 171.15(a) so that the assessment of annual fees commences after future non-power production or utilization facility (NPUF) licensees have successfully completed startup testing and have provided written notification to the NRC. In addition, the NRC is renaming the ''research and test reactors'' fee class the ''non-power production or utilization facilities'' fee class, which would include currently operating research and test reactors and future NPUFs, such as non-reactor NPUF technologies. Finally, the NRC is amending § 171.15(e) so that the assessment of annual fees for a SMR licensee commences after the successful completion of power ascension testing and the licensee provides written notification to the NRC. These policy changes are consistent with the FY 2020 final fee rule (85 FR 37250; June 19, 2020) that amended the timing of the assessment of annual fees for future 10 CFR part 50 power reactors and 10 CFR part 52 COL holders.

Currently, § 171.15(a) requires the NRC to assess annual fees to a test or research reactor (excluding test or research reactors exempted under § 171.11(b)) when the NRC authorizes the licensee to use nuclear materials (*i.e.,* begin operating the reactor in accordance with its license). Prior to this final rule, the NRC had not established a policy for assessing 10 CFR part 171 annual fees to future non-reactor NPUF licensees (*e.g.,* SHINE); at this time, the NRC currently assesses only 10 CFR part 170 service fees to prospective applicants for preapplication activities, construction permit holders (*i.e.,* SHINE and Northwest Medical Isotopes, LLC (NWMI)) and applicants for operating licenses (*i.e.,* SHINE) for commercial NPUFs, as well as certain operating non-power production or utilization facilities not exempted under § 170.11. While the NRC's fee regulations do not include a fee class for future non-reactor NPUF licensees, the NRC historically has included budgeted resources for NWMI and SHINE within the research and test reactor fee class. The budgeted resources for NWMI and SHINE not recovered in 10 CFR part 170 service fees previously were included in fee-relief. These resources for the development of a medical isotope production infrastructure are now excluded from the fee-recovery requirement under NEIMA as a fee-relief activity identified by the Commission.

In anticipation that the NRC may decide to issue an operating license in the future, the NRC is revising its regulations to provide for the assessment of annual fees to NPUFs under § 171.15(a) when they have notified the NRC of the successful completion of startup testing. This final rule uses the term ''non-power production or utilization facility'' to have the same meaning as the definition used in SECY–19–0062, ''Final Rule:

Non-power Production or Utilization Facility License Renewal'' (ADAMS Accession No. ML18031A000), dated June 17, 2019.[4] The definition includes production or utilization facilities, licensed under § 50.21(a) or (c), or § 50.22, as applicable, that are not nuclear power reactors or production facilities within the meaning of paragraphs (1) and (2) of § 50.2, which defines ''production facility.'' This definition includes currently operating and future research and test reactors and proposed medical radioisotope facilities that would be licensed under 10 CFR part 50. As such, non-reactor NPUF licensees, such as SHINE, would be included in the same annual fee class as currently operating research and test reactors that pay 10 CFR part 171 annual fees. This approach is consistent with the current approach of combining limited numbers of similar facilities into a single annual fee category, where ''test reactors'' (of which only one is currently operational) are assessed the same 10 CFR part 171 annual fees as ''research reactors.'' In addition, the NRC expects that NPUF facilities will request that a single license under 10 CFR part 50 authorize the operation of multiple utilization and/or production facilities. Based on the number of facilities authorized to operate under a single license, the number of staff hours dedicated to licensing and oversight activities for these facilities is not expected to differ significantly compared to those for the current operating fleet of NPUFs. Furthermore, stakeholders have previously supported this approach regarding the assessment of 10 CFR part 171 annual fees for future NPUFs. Therefore, a single annual fee would be appropriate even where an NPUF licensee has multiple facilities operating under a single 10 CFR part 50 license.

SMR licenses can be issued under 10 CFR part 50 or 52. Currently, § 171.15 requires the NRC to assess annual fees to a 10 CFR part 50 SMR licensee upon issuance of an operating license, or to a 10 CFR part 52 SMR COL holder after the Commission has made the finding under § 52.103(g) for all licenses held for an SMR site. The annual fee would be determined using the cumulative licensed thermal power rating of all SMR units and the bundled unit concept. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, and the sequencing of the SMR licenses that have been issued. There are currently no operating SMRs; therefore, the NRC has not yet assessed an annual fee for this type of licensee.

The NRC recognizes that, after the issuance of an operating license under 10 CFR part 50 for NPUFs and SMRs, or a COL and § 52.103(g) finding under 10 CFR part 52 for SMRs, fuel or targets (or both) must be loaded and startup testing (for NPUFs) and power ascension testing (for SMRs) must be completed before the facility begins full licensed operation. As discussed in the statement of considerations for the FY 2020 final fee rule, 10 CFR part 52 COLs for power reactors contain a standard license condition that requires the submittal of written notification to the NRC upon successful completion of power ascension testing. Therefore, the NRC will incorporate a similar license condition into all future 10 CFR part 50 operating licenses for NPUFs and SMRs, and 10 CFR part 52 COLs for SMRs to ensure that the licensee will promptly notify the NRC of the successful completion of startup testing or power ascension testing. The annual fee assessment for future NPUFs and SMR licenses under 10 CFR part 50, and SMRs under 10 CFR part 52, will begin on the date of the licensee's written notification of the successful completion of startup testing or power ascension testing.

Accordingly, the NRC is amending § 171.15(a) and (e) so that annual fees commence upon written notification to the NRC of successful completion of startup testing and power ascension testing, rather than upon issuance of the operating license for 10 CFR part 50 NPUFs and SMRs, or issuance of the § 52.103(g) finding for 10 CFR part 52 COL holders for SMRs, but upon written notification to the NRC of successful completion of startup testing and/or power ascension testing. The NRC finds this change to 10 CFR part 171 to be reasonable, fair, and equitable, and to be supported by the public comments the NRC received on PRM–171–1, which was submitted by Dr. Michael D. Meier on behalf of the Southern Nuclear Operating Company (ADAMS Accession No. ML19081A015), and on the FY 2020 proposed fee rule (85 FR 9328; February 18, 2020). The NRC is also making conforming changes by revising § 170.3, ''Definitions,'' § 171.3, ''Scope,'' § 171.5, ''Definitions,'' and § 171.17, ''Proration.''

*FY 2021—Administrative Changes*

The NRC is making seven administrative changes:

1. *Change Small Entity Fees.*

As stated in SECY–08–0174, ''Fiscal Year 2009 Proposed Fee Rule and Advance Rulemaking for Grid-Appropriate Reactor Fees,'' dated November 7, 2008 (ADAMS Accession No. ML083120518), the NRC determined that the maximum small entity fee should be adjusted biennially using a fixed percentage of 39 percent applied to the prior two-year weighted average of materials users' fees for all fee categories that have small entity licensees. The 39 percent was based on the small entity annual fee for FY 2005, which was the first year the NRC was required to recover only 90 percent of its budget authority. This methodology remains in place; however, the NRC does also consider whether or not implementing an increase will have a disproportionate impact on the NRC's small entity licensees when compared to other licensees. Therefore, the increase for the upper and lower tier fees were capped at a 21 percent increase.

For the FY 2021 proposed fee rule (86 FR 10459; February 22, 2021), the NRC conducted a biennial review of small entity fees to determine whether the NRC should change those fees. The NRC used the fee methodology, developed in FY 2009, which applies a fixed percentage of 39 percent to the prior two-year weighted average of materials users' fees, when performing its biennial review. Based on this methodology and as a result of the FY 2021 biennial review, the NRC is increasing the upper tier small entity fee from $4,500 to $4,900 and increasing the lower tier fee from $900 to $1,000. This constitutes a 9 percent and 11 percent increase, respectively. The NRC believes these fees are reasonable and provide relief to small entities, while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

2. *Amend § 170.1, ''Purpose,'' to change the reference to the Independent Offices Appropriation Act, 1952.*

The NRC is amending § 170.1 to replace the ''of'' after Independent Offices Appropriation Act with a comma to make the reference to the legislation consistent with references in other NRC contexts.

3. *Amend § 170.3, ''Definitions,'' to eliminate definitions for ''Balance of plants,'' ''Nuclear Steam Supply*

[4] The NPUF draft final rule would also revise the definition of *research reactor* in §§ 170.3 and 171.5 to conform to other definitions in 10 CFR chapter I. The NRC is not proposing to change the definition of *Research reactor* in the specific exemption for federally-owned and State-owned research reactors in § 170.11(a)(9) or § 171.11(b)(2). The current definition in § 171.11(b)(2) is based on the language of OBRA–90. Further, a substantively similar definition of *research reactor* was included in the provisions of NEIMA that relate to the NRC's fee recovery structure. Changing the definition of *research reactor* in § 171.11(b)(2) would therefore be inconsistent with NEIMA.

*System,'' and ''Reference systems concept''.*

The NRC is amending § 170.3 to eliminate definitions for ''Balance of plants,'' ''Nuclear Steam Supply System,'' and ''Reference systems concept.'' These definitions are no longer applicable in 10 CFR part 170. These definitions were added in the FY 1977 final fee rule (43 FR 7210; March 23, 1978) to resolve issues concerning assessing fees for balance of plant reviews, related to a previous fee category (category A.4.b in the table at § 170.21 for standardized design-reference systems concept), that was not subject to full cost recovery. In the FY 1991 final fee rule, the NRC amended 10 CFR parts 52 and 170 to assess licensing fees for the review of standardized reactor designs, which would be subject to full cost recovery (56 FR 31472; July 10, 1991). This amendment to eliminate these definitions will not impact the NRC's assessment of 10 CFR part 170 fees for service.

4. *Remove footnote 6 to the table in § 170.21, and footnote 12 to the table in § 170.31.*

The NRC is removing footnote 6 to the table in § 170.21 and footnote 12 to the table in § 170.31 because (1) Congress has not enacted legislation that would exclude import and export activities from the fee-recoverable budget in FY 2021; and (2) in accordance with NEIMA, for FY 2021, the NRC identified international activities as fee-relief activities, but it did not include resources for import and export licensing. The NRC, therefore, will charge fees for import and export licensing actions.

5. *Amend § 171.5, ''Definitions,'' to replace the reference in ''Budget authority''.*

The NRC is amending the definition of ''budget authority'' to replace the reference to Public Law 101–508 (*i.e.,* OBRA–90) with a reference to Public Law 115–439 (*i.e.,* NEIMA). Effective October 1, 2020, NEIMA repealed Section 6101 of OBRA–90 and put in place a revised fee-recovery framework, requiring the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities.

6. *Amend § 171.11(c), ''Exemptions''.*

The NRC is revising § 171.11(c) to change the ''or'' in the section to ''and.'' This change accurately reflects that even when an exemption is ''in the public interest,'' the NRC cannot grant the exemption unless it is ''authorized by law.'' This change also harmonizes § 171.11(c) with § 170.11(b), which uses ''and.'' This change does not alter the NRC's fee exemption policy.

7. *Technical Correction.*

The NRC is making a technical correction to the program codes referenced in §§ 170.31 and 171.16. Under §§ 170.31 and 171.16, the NRC is removing program code 03252 since it is no longer in use for fee category 3(I). Under § 171.16, the NRC is replacing the program codes referenced for fee category 3(A)(1) with 04010, 04012, and 04014 to reflect the correct program codes that should be cited for this fee category. Currently, 3(A)(1) references program codes 03211, 03212 and 03213. The NRC is also removing program 03235 referenced in fee category 4(A) since it is used as a secondary program code and no fees are charged to this code.

*Update on the Fees Transformation Initiative*

In the staff requirements memorandum (SRM), dated October 19, 2016 (ADAMS Accession No. ML16293A902), for SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule'' (ADAMS Accession No. ML16194A365), the Commission directed the staff to accelerate its process improvements for setting fees. In addition, the Commission directed the staff to begin the fees transformation activities listed in SECY–16–0097 as ''Process Changes Recommended for Future Consideration—FY 2018 and Beyond.'' The NRC has completed 39 of the 40 fees transformation activities.

The one fees transformation activity yet to be completed is the rulemaking to update the NRC's small business size standards in § 2.810, ''NRC size standards.'' In FY 2020, the NRC conducted a survey of materials licensees to collect relevant data to help determine the need for changes to the NRC's small business size standards in § 2.810. In addition, the NRC considered changes in the small business size standards published by the Small Business Administration (SBA). On December 7, 2020, the staff submitted SECY–20–0111, ''Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,'' to the Commission (ADAMS Accession No. ML20268B327) with the staff's recommendations for amending the NRC's receipts-based size standards. In the SRM for SECY–20–0111 (ADAMS Accession No. ML21029A186), the Commission approved the staff's recommendation to initiate a rulemaking to amend the NRC's small business size standards in §§ 2.810 and 171.16(c) to comply with the Small Business Runway Extension Act of 2018 (Runway Act) and related SBA regulations and to reflect inflation adjustments. The NRC is currently in the process of developing the proposed rule. The NRC will continue to include updates on this rulemaking activity within the FY 2021 and FY 2022 fee rules to ensure that affected licensees are adequately informed. The public can track all NRC rulemaking activities, including the rulemaking on the NRC's size standards, on the NRC's Rulemaking Tracking and Reporting system at *https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html,* or by Docket ID NRC–2014–0264 at *http://www.regulations.gov.*

For more information, see the fees transformation accomplishments schedule, located on the NRC's license fees web page at: *https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.*

## III. Public Comment Analysis

*Overview of Public Comments*

The NRC published a proposed rule on February 22, 2021 (86 FR 10459), and requested public comment on its proposed revisions to 10 CFR parts 15, 170, and 171. By the close of the comment period, the NRC received eight written comment submissions on the FY 2021 proposed rule. In general, the commenters were supportive of the specific proposed regulatory changes. Some commenters expressed concerns about broader fee-policy issues related to transparency, the overall size of the NRC's budget, fairness of fees, and budget formulation. Some commenters' concerns were outside the scope of the fee rule.

The commenters are listed in Table XIX.

TABLE XIX—FY 2021 PROPOSED FEE RULE COMMENTER SUBMISSIONS

| Commenter | Affiliation | ADAMS accession No. |
|---|---|---|
| Andrew Straw | N/A | ML21064A398. |
| M. Keller | Hybrid Power Technologies LLC | ML21064A399 |

TABLE XIX—FY 2021 PROPOSED FEE RULE COMMENTER SUBMISSIONS—Continued

| Commenter | Affiliation | ADAMS accession No. |
|---|---|---|
| Matthew Ostdiek | Rendezvous Engineering, P.C. (RE) | ML21077A246 |
| Gary Peters | Framatome | ML21082A394 |
| Jennifer Uhle | Nuclear Energy Institute (NEI) | ML21084A747 |
| Cheryl Gayheart | Southern Nuclear Operating Company (SNC) | ML21084A747 |
| Bradley Fewell | Exelon Generation Company (Exelon) | ML21085A680 |
| Anonymous | N/A | ML21090A120 |

Information about obtaining the complete text of the comment submissions is available in Section XIV, ''Availability of Documents,'' of this document.

## IV. Public Comments and NRC Responses

The NRC has carefully considered the public comments received on the proposed rule. The comments have been organized by topic. Comments from a single commenter have been quoted to ensure accuracy; brackets within those comments are used to show changes that have been made to the quoted comments. The NRC responses are preceded by a short summary of the issues raised by the commenters.

### *A. Overhead Costs*

*Comment:* ''The NRC fees are wildly excessive relative to private industry. The NRC fee is more than engineering firm senior executives would charge a client. There is simply no question that the NRC bureaucracy is vast and requires an extremely high overhead cost be attached to the direct cost associated with NRC staff carrying out review activities. The NRC fee creates a yearly charge that is more than the salary of the U.S. president. As long as significantly excessive fees are charged, there appears to be no incentive for the NRC to reduce the overhead bloat, the proposed fee should be reduced by at least 5% every year until the fee is more similar to that of private industry doing similar work.'' (M. Keller)

*Response:* The NRC is a Federal agency tasked with protecting the health and safety of the public and the common defense and security, and there is no equivalent role found in private industry. Unlike private industry, all fees that the NRC assesses to applicants and licensees must conform to statutory requirements under the IOAA and NEIMA. In other words, the fees that the NRC charges are based in part on requirements that would not be reflected in the fees charged by private engineering firms.

The IOAA prescribes the framework for charging fees for government services. Under the IOAA, fees must be fair and based on the costs to the Government and value of the service to the recipient. Additionally, under NEIMA, the NRC is required to recover through fees, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities. Under NEIMA the NRC must also use its IOAA authority first to collect 10 CFR part 170 service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects.

To comply with these laws, the NRC establishes a professional hourly rate for its work. Consistent with the IOAA, the professional hourly rate is derived by adding budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency support, which includes corporate support and the Inspector General. The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct FTE converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for contract activities related to mission-direct contract resources, which are generally billed to licensees separately. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA.

No change was made to the final rule in response to this comment.

### *B. Operating Power Reactors Decline in the Budget and 10 CFR Part 170 Estimated Billings*

*Comment:* ''Over the past five years, Part 170 service fee collections have decreased by over 20%. This reduction is even more dramatic for the operating plant fee class from which over 85% of service fees are collected, where Part 170 service fee collections have decreased by 45%. While there has been a reduction in the NRC operating plant budget during this time, the reduction has not kept pace with the reduction in operating plant service fee collections. As a result, a greater percentage of the budget is required to be recovered through annual fees. The percentage of the operating plant budget that is derived from annual fees (currently at 73%) continues to increase; up from 62% in FY 2016. As noted in the fee rule notices and associated work papers, the reductions in service fee collections in recent years have been attributable, in part, to plant closures. These closures were announced well in advance and should have enabled adjustments to be made to properly align the NRC budget to reflect smaller projected workloads. With a number of announced nuclear plant closures in FY 2022 and subsequent years, the downward trend in Part 170 service fee collections will continue. It is not realistic to expect a decreasing number of operating plants to support a budget that, on a per plant basis, is appreciably increasing. The anticipated reduction in Part 170 service fee collections places a strong obligation on the NRC to ensure that staffing levels and budgets are properly aligned to reflect smaller projected workloads. The NRC should take all necessary steps to continue and expedite its efficiency efforts. Given the maturity of the U.S. nuclear fleet, in combination with its high level of operational performance and a demonstrated level of safety, timely reductions in unnecessary regulatory burden are appropriate. We are encouraged by efforts underway to transform NRC into a modern risk-informed regulator. It is imperative that these efforts continue.'' (NEI)

*Response:* The relationship between 10 CFR part 170 (service fees) relative to 10 CFR part 171 (annual fees) is workload-driven. The activities covered by 10 CFR part 171 annual fees are necessary for the NRC to accomplish its safety and security mission as described and justified in the CBJ. The amount of

service fees collected under 10 CFR part 170, on the other hand, depends on several factors, including the professional hourly rate, licensee and applicant decisions to pursue licensing actions, and the number of hours necessary to resolve any licensing actions.

Since FY 2016, the fee class budget for operating power reactors has decreased from $750.4 million in FY 2016 to $611.8 million in FY 2021. This represents a reduction of $138.6 million, or approximately 18 percent, as a result of the decreasing number of nuclear power reactor licensees, application delays and withdrawals, fewer license amendment requests being submitted, efficiencies gained with the merger of the Office of Nuclear Reactor Regulation and the Office of New Reactors, and long-term project completions. Over this same period, the 10 CFR part 170 estimated billings for the operating power reactors fee class have declined from $287.8 million in FY 2016 to $157.0 million in FY 2021, which represents a decline of $130.8 million, or approximately 45 percent. As compared to FY 2016, the operating power reactors fee class annual fee has declined from $465.9 million in FY 2016 to $446.8 million in FY 2021, which represents a decrease of $19.1 million, or approximately 4 percent. These changes in the budgetary resources and the 10 CFR part 170 estimated billings, as well as other adjustments (including billing adjustments, generic transportation, and the LLW surcharge) and the elimination of the fee-relief surcharge or credit in FY 2021, alter the amount of fee-recoverable budgeted resources that are required to be collected through 10 CFR part 171 annual fees from the operating power reactors fee class.

With respect to expediting efficiency efforts, the NRC continues to review its budget and pursue additional efficiency improvements related to budget formulation such as pursuing the use of analytical tools (*e.g.,* dashboards), to help the NRC analyze and report data quicker and more consistently and to support a more efficient and risk-informed budget formulation process. When formulating the budget, the NRC takes into consideration: (1) Projected operating power plant closures; (2) workload forecasting, including workload drivers, analysis of historical data and trends, and communication with stakeholders; (3) the estimated level of effort for regulatory activities and yearly recurring activities; and (4) other external factors that may impact how the NRC meets its statutory responsibilities as the industry changes. However, the NRC budget is not linearly proportional to the size of the operating power reactor fleet, as there is a cost for the infrastructure that must be maintained independent of the number of operating power reactors in the fleet.

The NRC is required by NEIMA to recover, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority for excluded activities. NEIMA also caps the per-licensee annual fee for operating reactors, to the maximum extent practicable, at the FY 2015 annual fee amount as adjusted for inflation. The NRC continues to evaluate resource requirements and adjustments that can be made to refine the operating power reactors budget.

Finally, the NRC remains committed to providing enhanced transparency throughout the development of the annual fee rule and supporting work papers.

No changes were made to this final rule as a result of these comments.

*Comment:* ''The FY 2021 Proposed Fee Rule continues to shift the burden created by overestimating Part 170 fee collections reflected in the NRC's appropriated budget to the recovery of Part 171 annual fees. While Exelon appreciates the challenge of precisely estimating the amount of Part 170 fees that will be recovered two years in advance due to the budget cycle, we note that this is precisely the problem that NEIMA intended to address. The Conference Report for NEIMA describes exactly this challenge in explaining the basis for the law: ''Several problems arise from [the OBRA–90] structure. If the NRC overestimates the amount of revenue it expect [sic] to collect under Part 170, it must recover the resulting revenue shortfall through Part 171 fees in order to meet the OBRA–90 mandate for 90 percent fee recovery.'' The Congress noted that this situation ''highlight[s] the need for the NRC to budget more accurately and recover fees for work that is actually conducted.'' It is clear, therefore, that Congress designed NEIMA with the existing challenges of the budget cycle in mind. Notwithstanding Congress's clear intent in this regard, the FY 2021 Proposed Fee Rule would continue to shift the impacts of Part 170 overbudgeting to Part 171 annual fees, which does not appear to take advantage of the significantly greater flexibilities in NEIMA with respect to the portions of its appropriated budget that the NRC must collect through fees.'' In addition to this comment submission, this response addresses similar comments made during the March 18, 2021, public meeting to discuss the FY 2021 proposed fee rule. (Exelon)

*Response:* The NRC disagrees with the commenter's suggestion that the allocation of service fees versus annual fees in the FY 2021 proposed fee rule might be inconsistent with congressional intent underlying NEIMA. Under NEIMA, the NRC is still required to recover through fees the total appropriated budget (with the exception of discrete categories of budget authority), and to do so through a combination of both service fees and annual fees. Specifically, NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities.

The NRC is fully in compliance with NEIMA. The NRC identified fee-relief activities in the FY 2021 CBJ (which were consistent with the fee-relief activities identified in the FY 2020 fee rule, with the exception of international activities, not including the resources for import and export licensing) and the FY 2021 final fee rule maintains those same fee-relief activities. The Congressional report referenced by the commenter as support for the proposition that NEIMA was intended to provide the NRC ''significantly greater flexibilities'' regarding fee collection is not a conference report, but rather a report issued by the Senate Committee on Environment and Public Works (Senate Report 115–86). At the time when the bill was reported by the Senate Committee on Environment and Public Works, the bill would have limited fee-relief activities to those identified in the FY 2015 final fee rule. This is inconsistent with the commenter's suggestion that this Congressional report reflects an intent for NEIMA to provide the NRC with greater flexibility in determining what portions of the appropriated budget are recovered through fees. The Congressional report in fact contains statements reflecting an intention that the NRC, under NEIMA, would collect fees based on the agency's workload, but the amount not recovered through fees would generally be unaffected. For example, the report states that ''[c]onsistent with current practice, the taxpayer continues to pay only for the items explicitly outlined in the law as appropriated items and the rest of the NRC's budget is to be recovered through fees[;] [a]s such, the cost to the taxpayer is generally unaffected but the fee recovery will be determined by the agency's workload rather than a mandated percentage.''

The FY 2021 CBJ provided the agency's explanation and justification for the resources being requested to allow the agency to complete its mission, and the reason for changes in the budget request for the NRC as compared to the prior year, at the business line and product line levels. Appendix C of the FY 2021 CBJ was included with the intent to increase transparency with stakeholders. The NRC developed this estimate based on the NRC staff's allocation of the FY 2021 budget request to fee classes under 10 CFR part 170 and allocations within the operating power reactors fee class under 10 CFR part 171, as well as certain data assumptions and historical information available during the FY 2021 budget formulation process.

Consistent with NEIMA, when developing the annual fee rule, the NRC had to take into account changes that occurred in the two-year interval between the development of the FY 2021 budget request, which began in FY 2019, and the enactment of the FY 2021 appropriation in December 2020. As part of the development of the annual fee rule, the NRC estimates the amount of 10 CFR part 170 service fees by each fee class by analyzing billing data and the actual cost of work under NRC contracts that was charged to licensees and applicants for the previous four quarters. The estimate, therefore, reflects any recent changes in the NRC's regulatory activities.

The FY 2021 proposed rule utilized four quarters of the prior year invoice data, while the NRC is using a combination of two quarters of the prior year and two quarters of the current year billing data (which is also updated to reflect workload changes) for the FY 2021 final rule. In the FY 2021 proposed fee rule, the 10 CFR part 170 estimated billings were $157.0 million compared to the $188.3 million that was included in the FY 2021 CBJ. The decline in 10 CFR part 170 estimated billings was primarily due to: (1) The plant closures of Indian Point Unit 3 in April 2021 and Duane Arnold in October 2020; (2) the completion of construction activities at Vogtle Unit 3; (3) the completion of the NuScale SMR design certification review; and (4) the impact of continued travel restrictions and limited on-site presence on inspection activities due to the COVID–19 pandemic.

The NRC continues to actively evaluate resource requirements to address changes that occur between budget formulation and execution, and to pursue improvements that enhance the accuracy of projections used in budget formulation. For example, the NRC considers projected operating power plant closures and other external factors when estimating workload changes in a manner that allows the agency to meet its statutory responsibilities as the industry changes. The NRC also seeks information from licensees and other entities relevant to projected workload through public meetings and other forms of public outreach, to better inform the NRC's budget formulation workload assumptions. Ultimately, however, the NRC budget is not linearly proportional to the size of the operating fleet, as there is a cost for the agency infrastructure that must be maintained independent of the number of operating power reactors in the fleet.

No changes were made to this final rule as a result of these comments.

*C. Fee-Relief Adjustment and NEIMA*

*Comment:* ''In the FY 2021 Proposed Fee Rule, the NRC did not make a ''fee-relief adjustment'' that it has made in past years on the basis that ''[b]ecause NEIMA eliminated the approximately 90 percent requirement for fee recovery and, in turn, the 10 percent limit on fee-relief activities, the NRC will no longer provide a fee-relief credit or assess a fee-relief surcharge as part of the calculation of annual fees for each licensee fee class.'' However, nowhere in NEIMA itself nor in the legislative history did Congress direct the NRC to eliminate fee-relief adjustments. NEIMA specifically requires the deduction of ''any fee relief activity, as identified by the Commission,'' which seems on its face to provide significant flexibility to the Commission to make necessary adjustments since ''any fee relief activity'' is not defined in the statute or the legislative history. The Proposed Fee Rule expressly acknowledges that the exclusion of fee relief activities is required by NEIMA as part of ''Excluded Activities'' to be excluded from fee recovery. But as explained in the Proposed Fee Rule, ''[i]n FY 2021, the fee-relief activities identified by the Commission are consistent with prior final fee rules'' with the exception of some international activities. In other words, while NEIMA made it possible for the NRC to define ''fee relief activities'' in a way that could have accounted for Part 170 over-budgeting, the Proposed Rule essentially maintains the same constraints that existed under OBRA–90. This interpretation was not mandated by Congress, nor does it appear to align with the NRC's overall vision to become a ''modern, risk-informed regulator'' that values innovative approaches to problem solving.'' (Exelon)

*Response:* The NRC disagrees with the commenter's suggestion that NEIMA allows for the NRC to provide fee-relief adjustments that would give licensees a possible credit or surcharge like under the OBRA–90 framework. NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities, one of which is fee-relief activities as identified by the Commission. Under NEIMA the NRC must also use its IOAA authority first to collect 10 CFR part 170 service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects.

Eliminating the fee-relief adjustment increases the predictability for licensees in forecasting their annual fees. The NRC discussed the elimination of the 10 percent fee-relief credit or surcharge in FY 2021 during the FY 2020 proposed fee rule public meeting on March 5, 2020 (ADAMS Accession No. ML20077G458), where the agency explained how the elimination of the credit or surcharge would make a licensee's annual fees more predictable.

For example, if the FY 2021 fee rule had, hypothetically, remained governed by OBRA–90 and the 10 percent allowance for fee relief specified in OBRA–90 applied, there would have been a surcharge of $9.9 million to all licensees in the FY 2021 fee rule. The NRC's FY 2021 appropriation totaled $844.4 million, so a 10 percent allowance would have resulted in $81.3 million for fee-relief activities. However, the FY 2021 proposed fee rule and supporting work papers illustrate that the NRC's budget for fee-relief activities during FY 2021 totaled $91.2 million for activities not attributable to an existing licensee or class of licensees and activities not assessed fees based on existing law or Commission policy. This would have resulted in an overage of $9.9 million if the OBRA–90 framework applied.

In addition, the commenter suggests that the NRC should put in fee-relief activities (instead of 10 CFR part 171 annual fees) the budgeted resources that were anticipated to be used for 10 CFR part 170 work (*e.g.,* licensing and oversight regulatory activities), but will ultimately not be used for 10 CFR part 170 work this fiscal year (*i.e.,* the differences in the 10 CFR part 170 estimated billings shown in Appendix C of the FY 2021 CBJ compared to the FY 2021 final fee rule). These resources were anticipated to be used for 10 CFR part 170 work for the operating power

reactors fee class as shown in Appendix C of the CBJ, which was developed based on the NRC staff's allocation of the FY 2021 budget request to fee classes under 10 CFR part 170 and allocations within the operating power reactors fee class under 10 CFR part 171, as well as certain data assumptions and historical information that was available during the FY 2021 budget formulation process. Consistent with NEIMA, when developing the annual fee rule, the NRC had to take into account changes that occurred in the two-year interval between the development of the FY 2021 budget request, which began in FY 2019, and the enactment of the FY 2021 appropriation in December 2020. In developing the FY 2021 fee rule, the NRC estimated the amount of 10 CFR part 170 service fees by each fee class by analyzing billing data and the actual cost of work under NRC contracts that was charged to licensees and applicants for the previous four quarters. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC must assess annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA. NEIMA requires the NRC to establish a schedule of annual fees that fairly and equitably allocates budgeted resources. While these resources were anticipated to be used for 10 CFR part 170 work for the operating power reactors fee class, the resources have been shifted to being used for work that is recovered through 10 CFR part 171 because it will benefit the operating power reactors fee class. Thus, the NRC has appropriately included the resources in 10 CFR part 171 fees for this fee class.

Fee-relief activities identified by the Commission fall into two categories: (1) Activities not attributable to an existing licensee or class of licensees, and (2) activities not assessed 10 CFR part 170 or 171 fees based on existing law or Commission policy. The categories of fee-relief activities are identified in the FY 2021 proposed fee rule in Table I *Excluded Activities* and were also discussed during the FY 2021 proposed fee rule public meeting on March 18, 2021. The fee relief activities identified by the Commission reflect a fair and equitable allocation of resources.

No changes were made to this final rule as a result of these comments.

*D. Corporate Support Cap and the Fee Rule Work Papers*

*Comment:* One commenter stated that ''One of NEIMA's requirements is the limitation of Corporate Support costs as a percentage of total budget authority, to the maximum extent practicable. Exelon suggests that the fee rule explain whether the Corporate Support costs are under the NEIMA limit. NRC should also demonstrate, either in the fee rule or the work papers, how the Corporate Support cost as a percentage of total budget authority is determined. For FY 2021, NEIMA limits Corporate Support costs (to the maximum extent practicable) to 30 percent of the NRC's total budget authority. During the March 18, 2021 NRC public meeting on the Proposed Fee Rule, the staff explained that Corporate Support costs for FY2021 totaled 31% of the agency's overall budget. However, the work papers for the determination of the professional hourly rate includes approximately $284M for Corporate Support (with IG), which amounts to approximately 34% of the overall budget authority of $844M. The NRC should clearly explain in the fee rule how it arrived at the 31% allocation that it described during the public meeting.'' (Exelon)

*Response:* Section 102(a)(3) of NEIMA requires that, to the maximum extent practicable, the corporate support costs requested in the annual budget justification provided to Congress not exceed a specified percentage of the total budget authority requested for the NRC in its annual budget justification (Section 102(a)(3)(A) includes the percentage applicable to the annual budget justification for FY 2021). As stated in the Executive Summary to the FY 2021 CBJ, the corporate support request was approximately 31 percent of the agency's total requested budget authority and reflects the agency's efforts to comply with Section 102(a)(3)(A) of NEIMA to the maximum extent practicable. The FY 2021 CBJ noted that further reductions to corporate support in FY 2021 were not feasible and would jeopardize the corporate activities necessary to accomplish the agency's mission. Pages 83–86 of the FY 2021 CBJ provide more specific information on the corporate support costs by product line that comprised the 31 percent referenced during the March 18, 2021, public meeting. The corporate support business line resources total approximately $271.4 million in FY 2021, as shown on page 83 of the FY 2021 CBJ. Corporate support does not include Inspector General budgetary resources. The percent corporate support is calculated by dividing $271.4 million by $863.4 million, which is 31 percent of the agency's total requested budget authority.

Section 102(a)(3) of NEIMA as it pertains to the corporate support cap applicable to the annual budget justification does not apply to the annual fee rule. In the FY 2021 proposed fee rule and supporting work papers, the NRC's professional hourly rate calculation was derived by adding, in part, resources for agency support, which include both corporate support and the Inspector General. The agency support (corporate support and the Inspector General) resources in the FY 2021 proposed fee rule total $283.7 million, or approximately 34 percent when dividing by $844.4 million. In addition, the NRC's overall budget authority was reduced by $19.0 million (and Congress, in turn, directed the NRC to use carryover funding, as further discussed in the ''FY 2021 Fee Collection—Overview'' section of this document). Also, the FY 2021 fee rule is based on the enacted budget, not the budget request. The agency will continue efforts to implement efficiencies and invest resources in initiatives that will result in future savings in corporate support activities.

No changes were made to this final rule as a result of these comments.

*E. 10 CFR Part 171 Operating Power Reactors Fee Class Invoicing*

*Comment:* ''As noted in the Proposed Fee Rule, NRC has improved the accuracy and clarity of Part 170 service fee invoicing, *e.g.,* via internal auditing and development of Enterprise Project Identifiers (EPID). Exelon acknowledges and salutes the NRC's success in this area. However, as accuracy and clarity in hourly fees collected under Part 170 has increased, the actual amount of fees collected under Part 170 has decreased. Exelon understands that the numerous line item numbers shown in the work papers' Power Reactors Fee Class details are themselves the summations of multiple other supporting calculations apparently too detailed to provide. Numerous as these line items are, their general nature makes understanding difficult for an outside reviewer. Exelon suggests that some ''pointer'' designation be developed, similar to the EPID/CAC system used for Part 170 fees [ ] and included in the quarterly Part 171 reactor fee invoicing. This way, the details of which line items will be funded via reactor fee invoicing within a given calendar year quarter may be better tracked back to the work papers, allowing constructive dialogue between NRC and reactor licensees regarding the applicability of a particular line item to that licensee.'' (Exelon)

*Response:* With respect to 10 CFR part 171, it would be impractical for the NRC

to provide a ''pointer,'' such as the budget string, since annual fees are a recovery of remaining costs associated with the particular business line budget reconciled to a fee class.

The fee rule and its supporting work papers are published so the public and licensees can understand how fees are determined for a fee class and a fee category. Consistent with the requirements of NEIMA, annual fees are calculated by business lines, product lines, and products based on the budget authority enacted for the current fiscal year. The NRC provides those business lines, product lines, and products in the fee rule work papers. The CBJ provides the agency explanation and justification for the resources being requested for the budget year, including increases and decreases, and the reason for changes in the budget request for the agency as compared to the prior year, at the business line and product line levels; it also includes the prior year actual amounts at the business line and product line levels.

Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under NEIMA, the NRC must use its IOAA authority first to collect 10 CFR part 170 service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects. In so doing, the NRC establishes a professional hourly rate for its work. The 10 CFR part 170 direct work performed is included on the quarterly invoice, which includes the CAC/EPID combination, charges, and the name(s) of the person(s) conducting the activities associated with the respective licensee fee class. With respect to 10 CFR part 170 service fees, the NRC staff time spent on licensing and inspection activities is subject to change, depending on the novelty and complexity of the application (*e.g.,* new licenses, renewals, amendments, special projects) under review or the facility being inspected.

Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA. Thus, providing a ''pointer'' for annual fees such as the budget string, as suggested by the commenter, would be impractical.

At the same time, to increase transparency, the NRC first incorporated a reconciliation of the FY 2020 CBJ resources by business line to the associated fee class in the FY 2020 fee rule work papers so that stakeholders can trace the CBJ business line budgets to the resources recovered within each fee class budget by product line. The FY 2021 fee rule work papers include the reconciliation of the FY 2021 CBJ to the respective fee class. The NRC continues to strive to enhance transparency of how fees are determined.

No changes were made to the final rule as a result of this comment.

*F. Public Participation in Budget Formulation*

*Comment:* ''Exelon supports the comments of the Nuclear Energy Institute on the FY 2021 Proposed Fee Rule. Given that there is no formal way for stakeholders to provide input into the formulation of the NRC's annual budget, Exelon encourages the NRC to consider these comments as part of its next budget and fee formulation process. Exelon respects the objective judgment that NRC exercises as an independent safety regulator. However, Exelon encourages the NRC to seek ways to improve its interactions with the regulated industry during budget development, within the limits required to maintain NRC independence.'' (Exelon)

*Response:* The NRC seeks information from licensees and other entities relevant to projected workload, through public meetings and other forms of public outreach, to better inform the NRC's budget formulation workload assumptions. This public outreach provides an opportunity for the regulated industry to provide information to inform the NRC budget. However, as noted in the comment, the NRC is an independent regulator, and to preserve its independence the NRC does not involve non-government organizations and members of the public in budget formulation. In addition, OMB establishes the Executive Branch budget process through OMB Circular No. A–11, ''Preparation, Submission, and Execution of the Budget.'' Section 22.1 of OMB Circular No. A–11 requires that pre-decisional budget deliberations remain confidential until the release of the President's budget request (and, in turn, the CBJ).

No changes were made to this final rule as a result of these comments.

*G. Small Entity*

*Comment:* One commenter had comments regarding the NRC's small entity size standards and that the NRC should consider establishing lower licensing fees by creating one or more additional ranges between the $520,000 and $7,000,000 gross annual receipts range. The commenter stated that a fee rate schedule with more steps for small businesses would help reduce the license fee burden on the smaller entities and help small business concerns. (RE)

*Response:* To reduce the significance of the annual fees on a substantial number of small entities, the NRC established the maximum small entity fee in FY 1991. In FY 1992, the NRC introduced a second lower tier to the small entity fee. Because the NRC's methodology for small entity size standards has been approved by the SBA, the NRC did not modify its current methodology for this rulemaking.

In FY 2020, the NRC conducted a survey of materials licensees to collect relevant data to help determine the need for changes to the NRC's small business size standards in § 2.810. In addition, the NRC considered changes in the small business size standards published by the SBA.

On December 7, 2020, the staff submitted SECY–20–0111, ''Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,'' to the Commission (ADAMS Accession No. ML20268B327) with the staff's recommendations for amending the NRC's receipts-based size standards. While the NRC staff recommended making inflation-related increases and adjusting the methodology for consistency with SBA regulations, the survey results did not suggest that the NRC should change its small entity size standards. In the SRM for SECY–20–0111 (ADAMS Accession No. ML21029A186), the Commission approved the staff's recommendation to initiate a rulemaking to amend the NRC's small business size standards in § 2.810 and to comply with the Runway Act and related SBA regulations and to reflect inflation adjustments, which will be part of a separate rulemaking activity. Also, as part of that rulemaking activity, analogous to the proposed inflation adjustment in § 2.810, the NRC will be proposing to increase the upper tier and lower tier receipts-based small entity size standards in § 171.16(c).

The NRC is currently in the process of developing the proposed rule for the small entity rulemaking activity. The NRC will continue to include updates on this rulemaking activity in the **Federal Register** notifications associated with the FY 2021 and FY 2022 fee rules to ensure that affected licensees are adequately informed. The public can track all NRC rulemaking activities, including the rulemaking on the NRC's size standards, on the NRC's Rulemaking Tracking and Reporting

system at *https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html,* or by Docket ID NRC–2014–0264 at *http://www.regulations.gov.*

No change was made to this final rule in response to this comment.

*Comment:* One commenter had questions regarding the categories of licensees that can qualify as small entities, and the categories of licensees whose average users' fees are used to determine the maximum small entity fee. (Anonymous)

*Response:* In implementing the Regulatory Flexibility Act of 1980, as amended, the NRC ultimately determined that it was appropriate for the agency to establish its own size standards that were consistent with the NRC's regulatory activities. The NRC classifies its small business licensees by their use of nuclear materials since the NRC's materials categories cover a mix of industries. The NRC's materials licensees can use the size standards criteria to quality as a small entity for a reduced annual fee. The NRC's industry specific size standards were approved by the SBA.

License types that allow a licensee to be eligible to qualify as a small entity and pay a reduced annual fee are listed under § 171.16. These include materials licenses (*i.e.,* 10 CFR parts 30, 40, 70, 71, and 76 licenses) and 10 CFR part 72 licenses. The prior two-year weighted average of service fees for the qualifying fee categories that have small entity licensees is used in the biennial adjustment of the maximum small entity fee. Average service fees for types of licenses (*e.g.,* 10 CFR part 50 licenses) that do not allow a licensee to be eligible to qualify as a small entity are not used in the determination of small entity fees.

No change was made to this final rule in response to this comment.

*H. Definition of Research Reactor Under § 170.11, § 171.11, and NEIMA*

*Comment:* ''NEIMA's exemption of a research reactor is a reactor licensed under section 104c of the Atomic Energy Act of 1954. It does not mention that it needs to be ''Federal-owned and State-Owned research reactors used primarily for educational proposes.'' So any Research Reactor licensed under 104c of the Atomic Energy Act of 1954 and meets the requirement of operations list should be except *[sic]* from fees. 10 CFR 170.11 and 10 CFR 171.11 need to be changed to reflect NEIMA definition of exempt. Having research and test reactors exempt from both annual and performance fees would encourage private investment as NEIMA was trying to do.'' (Anonymous)

*Response:* The NRC disagrees with this commenter's position that, in order to be consistent with NEIMA, the NRC should change the definition of ''research reactor'' in §§ 170.11 and 171.11 to exempt from fees all research reactors licensed under Section 104c. of the Atomic Energy Act (AEA). First, NEIMA (in Section 102(b)(3)(D)(ii)) makes the annual fee exemption applicable for ''federally owned research reactor used primarily for educational training and academic research purposes.'' In addition, the primary purpose of this rule is to update the NRC's fee schedules to recover, to the maximum extent practicable, approximately 100 percent of the NRC's total budget authority for the current fiscal year, less the budget authority for excluded activities, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with NEIMA.

The NRC has not proposed changing the definition of ''research reactor,'' or the types of research reactors that are exempt (*i.e.,* Federally-owned and State-owned research reactors used primarily for educational training and academic research purposes) in the specific exemptions in § 170.11(a)(9) or § 171.11(b)(2). The current ''research reactor'' definition in §§ 170.11(a)(9) and 171.11(b)(2), and the types of research reactors that are exempt from annual fees, stemmed from language in OBRA–90. NEIMA included substantively similar fee exemption language for research reactors. Changing the definition of ''research reactor'' in § 170.11(a)(9) or § 171.11(b)(2), or the types of research reactors that are exempt from fees pursuant to §§ 170.11(a)(9) and 171.11(b)(2), to include all research reactors licensed under Section 104c. of the AEA would not be consistent with the exemption provision in NEIMA or its predecessor in OBRA–90.

Section 106 of NEIMA, ''Encouraging private investment in research and test reactors,'' pertains to the financial criteria used to determine whether a utilization facility is licensed as a commercial facility under Section 103 of the AEA, ''Commercial Licenses,'' or as a research and development facility under paragraph c of Section 104, ''Medical Therapy and Research and Development,'' of the AEA. This subject of this provision of NEIMA does not relate to fees and is outside the scope of this final rule.

No change was made to this final rule in response to this comment.

*I. Accurate Invoicing*

*Comment:* ''What are the policies for fairness? We've disputed invoices in the [past] because the NRC had already completed a task, we had been shut down for years and there was no need for the NRC to restudy, investigate or review the issue. Yet, we were told that the charges were valid because the employee did indeed work the hours they said on the project. Is it fair for us to have to pay for the same work twice? We don't think so and the public would not think so. We can't tell from our recent billings what activity within a project. For example, an inspector or auditor comes out and visits. Then they go back and write their report and ask RAI, etc. We only get total hours worked on the project, not how much time it took them to write the report, how much time did [they] work on specific items they are reporting on. That would be useful information to us the licensee.'' (Anonymous)

*Response:* The NRC is firmly committed to the application of fairness and equity in the assessment of fees. NEIMA requires the NRC to establish a schedule of fees that fairly and equitably allocates these fees among the NRC's licensees and certificate holders. As part of this process, each year the NRC reassesses and publishes a proposed rule and final rule of the revisions of the fee schedules for each license fee class. As stated in the proposed rule, under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. The NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing activities, inspections, and special projects). Because the NRC's fee recovery under the IOAA for 10 CFR part 170 fees for service will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses annual fees under 10 CFR part 171 to recover the remaining amount necessary to comply with NEIMA. In the FY 2021 proposed fee rule, each license fee class includes the specific information to detail how the annual fees are derived, such as the budgetary resources, and 10 CFR part 170 estimated billings for direct activities, specific adjustments, the explanations for the changes, and the comparison to the prior fiscal year in order to derive the 10 CFR part 171 annual fees.

Additionally, Section 102(d) of NEIMA required three sets of actions

related to NRC invoices for service fees assessed under 10 CFR part 170. First, as stated in Section 102(d)(1) of NEIMA, the NRC must ''ensure appropriate review and approval prior to the issuance of invoices'' for service fees. Second, as stated in Section 102(d)(2) of NEIMA, the NRC must ''develop and implement processes to audit invoices [for 10 CFR part 170 service fees] to ensure accuracy, transparency, and fairness.'' Third, as stated in Section 102(d)(3) of NEIMA, the NRC is required to ''modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices'' for service fees.

For the first two sets of actions, the NRC developed and implemented process improvements to ensure accurate invoicing, which include, but is not limited to the following: (1) Implementing a process to standardize the validation of fees to ensure that fee billing data is correct before appearing on a licensee's invoice; (2) redesigning the invoices to add clarity and transparency for its stakeholders such as including the names of individual NRC staff and/or contractor companies, if applicable, who had performed the work associated with the charges; and (3) implementing a new data structure to more effectively account for and track all billable work at the project level with an EPID data element, which provides useful details regarding the type of project or work that is being billed. Using this data structure allows NRC licensees and other persons assessed service fees to identify how many hours are being expended on each of the various activities within a project.

For the third set of actions, as discussed in the proposed rule, the NRC has developed and is implementing requirements for a standard method for licensees and applicants to efficiently dispute or seek review and correction of errors in invoices, which is illustrated in the process map, ''NRC Form 529, Processing Dispute of Fees-For-Service Charges'' (ADAMS Accession No. ML20311A159). Additionally, the NRC is modifying its regulations related to accurate invoicing to clearly outline the interactions between the submitter and the NRC and enhance clarity regarding the dispute process by setting out: (1) The process for submitting a fee dispute, (2) the stages of the decisionmaking process while the dispute is under review, and (3) the manner by which the NRC will notify a debtor after it makes a final determination on a dispute.

Finally, regarding the commenter's specific comments on the regulatory activities that the NRC has previously conducted and billed to the commenter (*e.g.,* inspection activities, reports, and requests for additional information on projects), this is outside scope of this final rule. If the commenter has specific questions regarding NRC invoices and fees that have been assessed, the commenter can contact the Office of the Chief Financial Officer via the eBilling system support portal, by email to *FeeBillingInquiries.Resource@nrc.gov,* or by mail to the Office of the Chief Financial Officer at U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Chief Financial Officer.

No change was made to this final rule in response to this comment.

*Comment:* ''NRC Form 529 on page 2 has a list [of] 7 pre-conditions that you must certify that you have done. One of them is I Certify that the NRC Form 527 ''Request for Information Related to Fees-for-Service'' was submitted and a response was received by my organization. Who fills out the response? Do they know the details of the work the person in dispute was performing? We've used NRC Form 527 in the past. NRC Response did not answer the questions we had in the additional disputed details. They just confirmed the information we already knew. [They] confirmed that the employee did work on the project, but did not detail what work they were doing.[ ] We've disputed bills in the past, the process only confirmed that the employee spent the hours working on the project so the charges are correct. The CFO refused to take into account the benefit to the licensee and/or fairness of the charge to the licensee. 45 days from initial demand letter (invoice) is not enough time in some cases to determine if the invoice was correct, provided the licensee with a benefit, or was fair for the licensee to be charged. It should be 90 days from when the error became apparent for the licensee to dispute the charge. For example, [i]f you don't like the dispute resolution, what is the process for future review or appeals outside of the NRC CFO office? '' (Anonymous)

*Response:* The NRC continues to strive to enhance the invoicing process to ensure invoice accuracy and the availability of appropriate processes for licensees to efficiently request a review or submit a dispute for invoice errors. A licensee who requests additional information related to NRC staff/contract costs associated with their NRC invoice is responsible for completing all items on page 1 of the NRC Form 527, except for the dedicated response section used by NRC staff only (detailed instructions are provided on page 2 in addition to a process map on page 3 of the form). After the licensee completely fills out their required portions of the NRC Form 527, it should be submitted to the Office of the Chief Financial Officer using one of the three listed options on the form. Once the form is received, the Office of the Chief Financial Officer will forward it to the appropriate EPID contact who will provide the response. The NRC EPID contact will always be the responsible point of contact who is fully knowledgeable of the work performed and, therefore, the appropriate individual to provide a response.

The NRC Form 529 contains a listing of seven pre-conditions that all licensees must meet before submitting the form. These pre-conditions ensure licensees have properly adhered to NRC's standard dispute process which requires: (1) An initial submission of the NRC Form 527 to request a formal review of the charges in question, and (2) submission of the NRC Form 529 to officially request a dispute of the charges after receiving the response provided on the NRC Form 527. Currently, most of the NRC's licensees subject to 10 CFR part 170 fees are registered in eBilling, which is a public-facing, web-based application that provides immediate delivery of NRC invoices in addition to the capability to view and analyze invoice details. Therefore, it is strongly recommended that licensees not registered in eBilling consider utilizing this electronic invoice platform, if they have the capability to do so. However, consideration was given to the current initial demand letter (invoice) 30-day policy, and the NRC is amending § 15.31 to allow licensees an additional 15 days to submit a review request from the initial demand letter (invoice). The NRC believes that 45 days from receiving an initial demand letter provides enough time for all licensees to determine if an invoice is accurate. Furthermore, upon submission of the NRC Form 529, the licensee must certify they are submitting an official dispute request to the Office of the Chief Financial Officer and agree that the final determination of the status of the disputed debt decision rests solely with the NRC. The NRC's response to a licensee's request submitted on the NRC Form 529 officially completes the agency's invoice dispute process.

Finally, regarding the commenter's specific comments on the regulatory activities that the NRC has previously conducted and billed to the commenter (*e.g.,* inspection activities, reports, and requests for additional information on

projects), this is outside of the scope of this final rule. If the commenter has specific questions regarding NRC invoices and fees that have been assessed, the commenter can contact the Office of the Chief Financial Officer via the eBilling system support portal, by email to *FeeBillingInquiries.Resource@nrc.gov,* or by mail to the Office of the Chief Financial Officer at U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Chief Financial Officer.

No change was made to this final rule in response to this comment.

*J. Comments on Matters Not Related to This Rulemaking*

Several commenters raised issues outside the scope of the FY 2021 fee rule. Commenters raised concerns with the agency's budgeting process and requested public participation on the agency's budget formulation process. A few commenters requested expediting efficiency efforts and engaging industry regarding additional efficiencies, improvements and efficiencies in the review process for topical reports to reduce the professional hourly rate for special project fees. These matters are outside the scope of this final rule. The primary purpose of the rule is to update the NRC's fee schedules to recover approximately 100 percent of the NRC's total budget authority for the current fiscal year, less the budget authority for excluded activities, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with NEIMA.

The NRC understands the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Accordingly, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at improving the efficiency of NRC operations and enhancing the agency's approach to regulating. Though comments raising these issues are not within the scope of this final rule, the NRC will consider this input in its future program operations.

## V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[5] the NRC has prepared a regulatory flexibility analysis related to this final rule. The regulatory flexibility analysis is available as indicated in Section XIV, ''Availability of Documents,'' of this document.

## VI. Regulatory Analysis

Under NEIMA, the NRC is required to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2021 less the budget authority for excluded activities. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery.

In this final rule, the NRC continues this longstanding approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this final rule.

## VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, § 50.109, does not apply to this final rule and that a backfit analysis is not required because these amendments do not require the modification of, or addition to, (1) systems, structures, components, or the design of a facility; (2) the design approval or manufacturing license for a facility; or (3) the procedures or organization required to design, construct, or operate a facility.

## VIII. Plain Writing

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

## IX. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this final rule.

## X. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Act. In accordance with 5 CFR 1320.4(a)(2), NRC Forms 527 and 529 are also not subject to the requirements of the Paperwork Reduction Act.

**Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

## XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801–808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

## XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2021 less the budget authority for excluded activities, as required by NEIMA. This action does not constitute the establishment of a standard that contains generally applicable requirements.

## XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2021 final fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2021. This compliance guide is available as indicated in Section XIV, ''Availability of Documents,'' of this document.

## XIV. Availability of Documents

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

[5] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

| Documents | ADAMS Accession No./web link |
|---|---|
| SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005 | ML052580332. |
| SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' dated August 15, 2016. | ML16194A365. |
| Staff Requirements Memorandum for SECY–16–0097, dated October 19, 2016 | ML16293A902. |
| NUREG–1100, Volume 36, ''Congressional Budget Justification: Fiscal Year 2021'' (February 2020). | ML20024D764. |
| Process map, ''NRC Form 527, Request for Information Related to Fees-for-Service'' | ML20104C055. |
| Process map, ''NRC Form 529, Processing Dispute of Fees-For-Service Charges'' | ML20311A159. |
| NRC Form 529, ''Dispute of Fees-For-Service Charges in Accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Processing Dispute of Fees-For-Service Charges § 170.51''. | ML20339A673. |
| FY 2021 Final Rule Work Papers | ML21119A024. |
| FY 2021 Final Fee Rule | ML21109A319. |
| FY 2021 Regulatory Flexibility Analysis | ML21105A747. |
| FY 2021 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide | ML21105A750. |
| SECY–19–0062, ''Final Rule: Non-Power Production or Utilization Facility License Renewal,'' dated June 17, 2019. | ML18031A000. |
| SECY–20–0111, ''Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,'' dated December 7, 2020. | ML20268B327. |
| SRM–SECY–20–0111, ''Rulemaking Plan to Amend the Receipts-Based NRC Size Standards'' (NRC–2014–0264). | ML21029A189. |
| NRC Form 526, ''Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171''. | *https://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf.* |
| OMB Circular A–25, ''User Charges'' | *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/circulars/a025/a025.html.* |
| Fees Transformation Accomplishments | *https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.* |

**List of Subjects**

*10 CFR Part 15*

Administrative practice and procedure, Claims, Debt collection.

*10 CFR Part 170*

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

*10 CFR Part 171*

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 15, 170, and 171:

## PART 15—DEBT COLLECTION PROCEDURES

■ 1. The authority citation for part 15 continues to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 161, 186 (42 U.S.C. 2201, 2236); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 3701, 3713, 3716, 3719, 3720A; 42 U.S.C. 664; 44 U.S.C. 3504 note; 31 CFR parts 900 through 904; 31 CFR part 285; E.O. 12146, 44 FR 42657, 3 CFR, 1979 Comp., p. 409; E.O. 12988, 61 FR 4729, 3 CFR, 1996 Comp., p. 157.

■ 2. Revise § 15.31 to read as follows:

**§ 15.31 Disputed debts.**

(a) *Submitting a dispute of debt.* For any type of charges assessed by the NRC, a debtor may submit a dispute of debt within 45 days from the date of the initial demand letter. The debtor shall explain why the debt is incorrect in fact or in law and may support the explanation by affidavit, cancelled checks, or other relevant evidence. The dispute must be submitted to the Office of the Chief Financial Officer via the eBilling system, by email to *FeeBillingInquiries.Resource@nrc.gov,* or by mail to the Office of the Chief Financial Officer at: U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Chief Financial Officer. For debt disputes related to charges for 10 CFR part 170 fees, the debtor must complete and submit an NRC Form 529 with the required information.

(b) *Notification of receipt.* Following receipt of the dispute, the NRC will acknowledge receipt to the contact person identified by the debtor.

(c) *Dispute review.* The NRC will consider the facts involved in the dispute and, if it considers it necessary, arrange for a conference during which the debtor may present evidence and any arguments in support of the debtor's position. If the debtor's dispute potentially raises an error, the NRC may extend the interest waiver period as described in § 15.37(j) pending a final determination of the existence or amount of the debt.

(d) *Dispute resolution.* If the NRC finds that the dispute has not identified an error, the NRC will notify the dispute contact. If the NRC finds that the dispute has identified an error, the NRC will:

(1) Notify the dispute contact;

(2) Make corrections to the charges or information on the demand letter; and

(3) Issue a revised demand letter.

■ 3. In § 15.37, revise paragraph (j) to read as follows:

**§ 15.37 Interest, penalties, and administrative costs.**

* * * * *

(j) The NRC may waive interest during the period a debt disputed under

**§ 15.31 is under consideration by the NRC. However, this additional waiver is not automatic and must be requested before the expiration of the initial 30-day waiver period. The NRC may grant the additional waiver only when it finds the debtor's dispute potentially raises an error.**

* * * * *

■ 4. In § 15.53, revise paragraphs (c) and (e) to read as follows:

**§ 15.53 Reasons for suspending collection action.**

* * * * *

(c) The debtor has requested a review of the debt or has disputed the debt.

* * * * *

(e)(1) The NRC shall suspend collection activity during the time required for consideration of the debtor's request for review or dispute of the debt, if the statute under which the request is sought prohibits the NRC from collecting the debt during that time.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, the NRC may use discretion, on a case-by-case basis, to suspend collection. Further, the NRC ordinarily should suspend collection action upon a request for review or dispute of the debt, if the NRC is prohibited by statute or regulation from issuing a refund of amounts collected prior to NRC consideration of the debtor's request. However, the NRC should not suspend collection when the NRC determines that the request for review or dispute of the debt is frivolous or was made primarily to delay collection.

* * * * *

## PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 5. The authority citation for part 170 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 6. Revise § 170.1 to read as follows:

### § 170.1 Purpose.

The regulations in this part set out fees charged for licensing services, inspection services, and special projects rendered by the Nuclear Regulatory Commission as authorized under title V of the Independent Offices Appropriation Act, 1952 (31 U.S.C. 9701(a)).

■ 7. In § 170.3:

■ a. Remove the definition for ''Balance of plant'';

■ b. Add a definition for ''Non-power production or utilization facility'' in alphabetical order; and

■ c. Remove the definitions for ''Nuclear Steam Supply System'' and ''Reference systems concept''.

The addition reads as follows:

### § 170.3 Definitions.

* * * * *

*Non-power production or utilization facility* means a production or utilization facility licensed under 10 CFR 50.21(a) or (c), or 10 CFR 50.22, as applicable, that is not a nuclear power reactor or production facility as defined under paragraphs (1) and (2) of the definition of ''production facility'' in 10 CFR 50.2.

* * * * *

### § 170.20 [Amended]

■ 8. In § 170.20, remove the dollar amount ''$279'' and add in its place the dollar amount ''$288''.

■ 9. In § 170.21, in the table:

■ a. Revise the table heading and the entry for ''K. Import and export licenses''; and

■ b. Remove footnote 6.

The revisions read as follows:

### § 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

* * * * *

TABLE 1 TO § 170.21—SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

| Facility categories and type of fees | Fees [1] [2] |
|---|---|
| * * * * * * * | |
| K. Import and export licenses: | |
| Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110. | |
| 1. Application for import or export of production or utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b). | |
| Application—new license, or amendment; or license exemption request | $20,200 |
| 2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a). | |
| Application—new license, or amendment; or license exemption request | 10,100 |
| 3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances. | |
| Application—new license, or amendment; or license exemption request | 7,200 |
| 4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances. | |
| Application—new license, or amendment; or license exemption request | 4,900 |
| 5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities. | |
| Minor amendment to license | 4,300 |

[1] Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

* * * * *

■ 10. In § 170.31, revise the table to read as follows:

**§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.**

* * * * *

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

| Category of materials licenses and type of fees [1] | Fees [2] [3] |
|---|---|
| 1. Special nuclear material: [11] | |
| A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities. | |
| (a) Strategic Special Nuclear Material (High Enriched Uranium) [6] [Program Code(s): 21213] | Full Cost. |
| (b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [6] [Program Code(s): 21210]. | Full Cost. |
| (2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities [6]. | |
| (a) Facilities with limited operations [6] [Program Code(s): 21240, 21310, 21320] | Full Cost. |
| (b) Gas centrifuge enrichment demonstration facilities. [6] [Program Code(s): 21205] | Full Cost. |
| (c) Others, including hot cell facilities. [6] [Program Code(s): 21130, 21133] | Full Cost. |
| B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [6] [Program Code(s): 23200]. | Full Cost. |
| C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 of this chapter in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [4]. | |
| Application [Program Code(s): 22140] | $1,300. |
| D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [4]. | |
| Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]. | $2,700. |
| E. Licenses or certificates for construction and operation of a uranium enrichment facility [6] [Program Code(s): 21200] | Full Cost. |
| F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities. [4] [6] [Program Code(s): 22155]. | Full Cost. |
| 2. Source material: [11] | |
| A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [6] [Program Code(s): 11400]. | Full Cost. |
| (2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode [6]. | |
| (a) Conventional and Heap Leach facilities [6] [Program Code(s): 11100] | Full Cost. |
| (b) Basic *In Situ* Recovery facilities [6] [Program Code(s): 11500] | Full Cost. |
| (c) Expanded *In Situ* Recovery facilities [6] [Program Code(s): 11510] | Full Cost. |
| (d) *In Situ* Recovery Resin facilities [6] [Program Code(s): 11550] | Full Cost. |
| (e) Resin Toll Milling facilities [6] [Program Code(s): 11555] | Full Cost. |
| (f) Other facilities [6] [Program Code(s): 11700] | Full Cost. |
| (3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [6] [Program Code(s): 11600, 12000]. | Full Cost. |
| (4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [6] [Program Code(s): 12010]. | Full Cost. |
| B. Licenses which authorize the possession, use, and/or installation of source material for shielding. [7] [8]. | |
| Application [Program Code(s): 11210] | $1,300. |
| C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. | |
| Application [Program Code(s): 11240] | $6,200. |
| D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.. | |
| Application [Program Code(s): 11230, 11231] | $2,900. |
| E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. | |
| Application [Program Code(s): 11710] | $2,700. |
| F. All other source material licenses.. | |
| Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820] | $2,700. |
| 3. Byproduct material: [11] | |
| A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. | |
| Application [Program Code(s): 03211, 03212, 03213] | $13,500. |

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees [1] | Fees [2] [3] |
|---|---|
| (1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. | |
| Application [Program Code(s): 04010, 04012, 04014] | $17,900. |
| (2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. | |
| Application [Program Code(s): 04011, 04013, 04015] | $22,400. |
| B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. | |
| Application [Program Code(s): 03214, 03215, 22135, 22162] | $3,700. |
| (1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. | |
| Application [Program Code(s): 04110, 04112, 04114, 04116] | $5,000. |
| (2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. | |
| Application [Program Code(s): 04111, 04113, 04115, 04117] | $6,200. |
| C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. | |
| Application [Program Code(s): 02500, 02511, 02513] | $5,400. |
| (1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. | |
| Application [Program Code(s): 04210, 04212, 04214] | $7,200. |
| (2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: More than 20. | |
| Application [Program Code(s): 04211, 04213, 04215] | $8,900. |
| D. [Reserved] | N/A. |
| E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). | |
| Application [Program Code(s): 03510, 03520] | $3,300. |
| F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. | |
| Application [Program Code(s): 03511] | $6,700. |
| G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. | |
| Application [Program Code(s): 03521] | $64,300. |
| H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. | |
| Application [Program Code(s): 03254, 03255, 03257] | $6,900. |
| I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.. | |
| Application [Program Code(s): 03250, 03251, 03253, 03256] | $15,300. |
| J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. | |
| Application [Program Code(s): 03240, 03241, 03243] | $2,100. |
| K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. | |
| Application [Program Code(s): 03242, 03244] | $1,200. |
| L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. | |
| Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613] | $5,700. |

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees [1] | Fees [2] [3] |
|---|---|
| (1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20.. | |
| Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622] | $7,500. |
| (2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. | |
| Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623] | $9,400. |
| M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. | |
| Application [Program Code(s): 03620] | $8,600. |
| N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C. | |
| Application [Program Code(s): 03219, 03225, 03226] | $9,200. |
| O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5. | |
| Application [Program Code(s): 03310, 03320] | $9,200. |
| (1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20. | |
| Application [Program Code(s): 04310, 04312] | $12,200. |
| (2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: More than 20. | |
| Application [Program Code(s): 04311, 04313] | $15,300. |
| P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1–5. | |
| Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130]. | $6,600. |
| (1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6–20. | |
| Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]. | $8,800. |
| (2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: More than 20. | |
| Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]. | $10,900. |
| Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration | $800. |
| R. Possession of items or products containing radium-226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section [5]. | |
| 1. Possession of quantities exceeding the number of items or limits in § 31.12(a)(4) or (5) of this chapter but less than or equal to 10 times the number of items or limits specified. | |
| Application [Program Code(s): 02700] | $2,600. |
| 2. Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter. | |
| Application [Program Code(s): 02710] | $2,600. |
| S. Licenses for production of accelerator-produced radionuclides. | |
| Application [Program Code(s): 03210] | $14,700. |
| 4. Waste disposal and processing: [11] | |
| A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. | |
| Application [Program Code(s): 03231, 03233, 03236, 06100, 06101] | Full Cost. |
| B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. | |
| Application [Program Code(s): 03234] | $7,200. |
| C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. | |
| Application [Program Code(s): 03232] | $5,200. |
| 5. Well logging: [11] | |
| A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. | |
| Application [Program Code(s): 03110, 03111, 03112] | $4,800. |
| B. Licenses for possession and use of byproduct material for field flooding tracer studies. | |
| Licensing [Program Code(s): 03113] | Full Cost. |
| 6. Nuclear laundries: [11] | |
| A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. | |
| Application [Program Code(s): 03218] | $22,900. |

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees [1] | Fees [2] [3] |
|---|---|
| 7. Medical licenses: [11] | |
| A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1–5. | |
| Application [Program Code(s): 02300, 02310] | $11,500. |
| (1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6–20. | |
| Application [Program Code(s): 04510, 04512] | $15,300. |
| (2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: More than 20. | |
| Application [Program Code(s): 04511, 04513] | $19,100. |
| B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1–5. | |
| Application [Program Code(s): 02110] | $9,000. |
| (1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6–20. | |
| Application [Program Code(s): 04710] | $11,900. |
| (2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: More than 20. | |
| Application [Program Code(s): 04711] | $14,900. |
| C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 1–5. | |
| Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160] | $10,900. |
| (1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 6–20. | |
| Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828] | $9,000. |
| (2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: More than 20. | |
| Application [Program Code(s): 04811,04813, 04815, 04817, 04819, 04821,04823, 04825, 04827, 04829] | $11,300. |
| 8. Civil defense: [11] | |
| A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. | |
| Application [Program Code(s): 03710] | $2,600. |
| 9. Device, product, or sealed source safety evaluation: | |
| A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. | |
| Application—each device | $17,900. |
| B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. | |
| Application—each device | $9,300. |
| C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. | |
| Application—each source | $5,500. |
| D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. | |
| Application—each source | $1,100. |
| 10. Transportation of radioactive material: | |
| A. Evaluation of casks, packages, and shipping containers. | |
| 1. Spent Fuel, High-Level Waste, and plutonium air packages | Full Cost. |
| 2. Other Casks | Full Cost. |
| B. Quality assurance program approvals issued under part 71 of this chapter. | |
| 1. Users and Fabricators. Application | $4,300. |
| Inspections | Full Cost. |
| 2. Users. Application | $4,300. |
| Inspections | Full Cost. |

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees [1] | Fees [2 3] |
|---|---|
| C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices). | Full Cost. |
| 11. Review of standardized spent fuel facilities | Full Cost. |
| 12. Special projects: Including approvals, pre-application/licensing activities, and inspections. | |
| Application [Program Code: 25110] | Full Cost. |
| 13. A. Spent fuel storage cask Certificate of Compliance | Full Cost. |
| B. Inspections related to storage of spent fuel under § 72.210 of this chapter | Full Cost. |
| 14. Decommissioning/Reclamation: [11] | |
| A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]. | Full Cost. |
| B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed. | Full Cost. |
| 15. Import and Export licenses: | |
| Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.). | |
| A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under § 110.40(b) of this chapter. | |
| Application—new license, or amendment; or license exemption request | $20,200. |
| B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (*i.e.,* Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). | |
| Application—new license, or amendment; or license exemption request | $10,100. |
| C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances. | |
| Application—new license, or amendment; or license exemption request | $7,200. |
| D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. | |
| Application—new license, or amendment; or license exemption request | $4,900. |
| E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment. | $4,900. |
| Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.). | |
| *Category 1 (Appendix P, 10 CFR Part 110) Exports:* | |
| F. Application for export of appendix P Category 1 materials requiring Commission review (*e.g.* exceptional circumstance review under § 110.42(e)(4) of this chapter) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I. | |
| Application—new license, or amendment; or license exemption request | $17,300. |
| G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. | |
| Application—new license, or amendment; or license exemption request | $8,600. |
| H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. | |
| Application—new license, or amendment; or license exemption request | $4,900. |
| I. Requests for each additional government-to-government consent in support of an export license application or active export license. | |
| Application—new license, or amendment; or license exemption request | $1,400. |
| *Category 2 (Appendix P, 10 CFR Part 110) Exports:* | |
| J. Application for export of appendix P Category 2 materials requiring Commission review (*e.g.* exceptional circumstance review under § 110.42(e)(4) of this chapter). | |
| Application—new license, or amendment; or license exemption request | $17,300. |
| K. Applications for export of appendix P Category 2 materials requiring Executive Branch review. | |
| Application—new license, or amendment; or license exemption request | $8,600. |
| L. Application for the export of Category 2 materials. | |
| Application—new license, or amendment; or license exemption request | $4,300. |
| M. [Reserved] | N/A. |
| N. [Reserved] | N/A. |
| O. [Reserved] | N/A. |
| P. [Reserved] | N/A. |
| Q. [Reserved] | N/A. |
| *Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):* | |
| R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment. | $1,400. |

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

| Category of materials licenses and type of fees [1] | Fees [2] [3] |
|---|---|
| 16. Reciprocity: | |
| Agreement State licensees who conduct activities under the reciprocity provisions of § 150.20 of this chapter. | |
| Application | $2,700. |
| 17. Master materials licenses of broad scope issued to Government agencies. | |
| Application [Program Code(s): 03614] | Full Cost. |
| 18. Department of Energy: | |
| A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages). | Full Cost. |
| B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities | Full Cost. |

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(1) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(i) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(ii) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(2) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(3) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(4) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(5) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[11] A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

■ 11. Revise § 170.51 to read as follows:

**§ 170.51 Right to dispute assessed fees.**

All debtors' disputes of fees assessed must be submitted in accordance with 10 CFR 15.31.

## PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 12. The authority citation for part 171 is revised to read as follows:

**Authority:** Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

■ 13. Revise § 171.3 to read as follows:

**§ 171.3 Scope.**

The regulations in this part apply to any person holding an operating license for a non-power production or utilization facility issued under 10 CFR part 50 that has provided notification to the Nuclear Regulatory Commission (NRC) that the licensee has successfully completed startup testing, and to any

person holding an operating license for a power reactor or small modular reactor licensed under 10 CFR part 50 or a combined license issued under 10 CFR part 52 that has provided notification to the NRC that the licensee has successfully completed power ascension testing. The regulations in this part also apply to any person holding a materials license as defined in this part, a certificate of compliance, a sealed source or device registration, a quality assurance program approval, and to a Government agency as defined in this part. Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

■ 14. In § 171.5, revise the definition of ''Budget authority'' and add a definition for ''Non-power production or utilization facility'' in alphabetical order to read as follows:

**§ 171.5 Definitions.**

* * * * *

*Budget authority* means the authority, in the form of an appropriation, provided by law and becoming available during the year, to enter into obligations that will result in immediate or future outlays involving Federal Government funds. The appropriation is an authorization by an Act of Congress that permits the NRC to incur obligations and to make payments out of the Treasury for specified purposes. Fees assessed pursuant to Public Law 115–439 are based on the NRC's budget authority.

* * * * *

*Non-power production or utilization facility* means a production or utilization facility licensed under 10 CFR 50.21(a) or (c), or 10 CFR 50.22, as applicable, that is not a nuclear power reactor or production facility as defined under paragraphs (1) and (2) of the definition of ''production facility'' in 10 CFR 50.2.

* * * * *

■ 15. In § 171.11, revise paragraph (c) to read as follows:

**§ 171.11 Exemptions.**

* * * * *

(c) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law and otherwise in the public interest.

* * * * *

■ 16. In § 171.15:
■ a. Revise the section heading and paragraphs (a), (b)(1), (b)(2) introductory text, (c)(1), and (c)(2) introductory text;
■ b. Remove paragraph (d);
■ c. Redesignate paragraphs (e) and (f) as paragraphs (d) and (e); and
■ d. Revise newly redesignated paragraphs (d) and (e).

The revisions read as follows:

**§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.**

(a) Each person holding an operating license for one or more non-power production or utilization facilities under 10 CFR part 50 that has provided notification to the NRC of the successful completion of startup testing; each person holding an operating license for a power reactor licensed under 10 CFR part 50 or a combined license under 10 CFR part 52 that has provided notification to the NRC of the successful completion of power ascension testing; each person holding a 10 CFR part 50 or 52 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a 10 CFR part 72 license who does not hold a 10 CFR part 50 or 52 license and provides notification in accordance with 10 CFR 72.80(g), shall pay the annual fee for each license held during the Federal fiscal year in which the fee is due. This paragraph (a) does not apply to test or research reactors exempted under § 171.11(b).

(b)(1) The FY 2021 annual fee for each operating power reactor that must be collected by September 30, 2021, is $4,749,000.

(2) The FY 2021 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges. The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2021 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2021 annual fee for each power reactor holding a 10 CFR part 50 license or combined license issued under 10 CFR part 52 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, is $237,000.

(2) The FY 2021 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section). The activities comprising the FY 2021 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) Each person holding an operating license for an SMR issued under 10 CFR part 50 or a combined license issued under 10 CFR part 52 that has provided notification to the NRC of the successful completion startup testing, shall pay the annual fee for all licenses held for an SMR site. The annual fee will be determined using the cumulative licensed thermal power rating of all SMR units and the bundled unit concept, during the fiscal year in which the fee is due. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, or the sequencing of the SMR licenses that have been issued.

(2) The annual fees for a small modular reactor(s) located on a single site to be collected by September 30 of each year, are as follows:

TABLE 1 TO PARAGRAPH (d)(2)

| Bundled unit thermal power rating | Minimum fee | Variable fee | Maximum fee |
|---|---|---|---|
| First Bundled Unit: | | | |
| 0 MWt ≤250 MWt | TBD | N/A | N/A. |
| >250 MWt ≤2,000 MWt | TBD | TBD | N/A. |
| >2,000 MWt ≤4,500 MWt | N/A | N/A | TBD. |
| Additional Bundled Units: | | | |
| 0 MWt ≤2,000 MWt | N/A | TBD | N/A. |
| >2,000 MWt ≤4,500 MWt | N/A | N/A | TBD. |

(3) The annual fee for an SMR collected under this paragraph (d) is in lieu of any fee otherwise required under paragraph (b) of this section. The annual fee under this paragraph (d) covers the same activities listed for the power reactor base annual fee and the spent fuel storage/reactor decommissioning reactor fee.

(e) The FY 2021 annual fee for licensees authorized to operate one or more non-power production or utilization facilities under a single 10 CFR part 50 license, unless the reactor is exempted from fees under § 171.11(b), is $80,000.

■ 17. In § 171.16:
■ a. Revise paragraphs (c) and (d); and
■ b. Remove paragraph (e).
The revisions read as follows:

**§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.**

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in Table 1 to this paragraph (c). Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

TABLE 1 TO PARAGRAPH (c)

| NRC small entity classification | Maximum annual fee per licensed category |
|---|---|
| Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years): | |
| $485,000 to $7 million | $4,900 |
| Less than $485,000 | 1,000 |
| Small Not-For-Profit Organizations (Annual Gross Receipts): | |
| $485,000 to $7 million | 4,900 |
| Less than $485,000 | 1,000 |
| Manufacturing Entities that Have An Average of 500 Employees or Fewer: | |
| 35 to 500 employees | 4,900 |
| Fewer than 35 employees | 1,000 |
| Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population): | |
| 20,000 to 49,999 | 4,900 |
| Fewer than 20,000 | 1,000 |
| Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer: | |
| 35 to 500 employees | 4,900 |
| Fewer than 35 employees | 1,000 |

(d) The FY 2021 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown table 2 to this paragraph (d):

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

| Category of materials licenses | Annual fees[1 2 3] |
|---|---|
| 1. Special nuclear material: | |
| A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities. | |
| (a) Strategic Special Nuclear Material (High Enriched Uranium)[15] [Program Code(s): 21213] | $4,643,000 |
| (b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel[15] [Program Code(s): 21210] | $1,573,000 |
| (2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. | |
| (a) Facilities with limited operations[15] [Program Code(s): 21310, 21320] | $1,037,000 |
| (b) Gas centrifuge enrichment demonstration facility[15] [Program Code(s): 21205] | N/A |
| (c) Others, including hot cell facility[15] [Program Code(s): 21130, 21133] | N/A |
| B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI)[11 15] [Program Code(s): 23200] | N/A |
| C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140] | $2,400 |
| D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310] | $5,700 |
| E. Licenses or certificates for the operation of a uranium enrichment facility[15] [Program Code(s): 21200] | $2,023,000 |
| F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155] | $4,300 |
| 2. Source material: | |

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees [1] [2] [3] |
|---|---|
| A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400] | $467,000 |
| (2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. | |
| (a) Conventional and Heap Leach facilities.[15] [Program Code(s): 11100] | N/A |
| (b) Basic *In Situ* Recovery facilities.[15] [Program Code(s): 11500] | $47,200 |
| (c) Expanded *In Situ* Recovery facilities [15] [Program Code(s): 11510] | N/A |
| (d) *In Situ* Recovery Resin facilities.[15] [Program Code(s): 11550] | [5] N/A |
| (e) Resin Toll Milling facilities.[15] [Program Code(s): 11555] | [5] N/A |
| (f) Other facilities [6] [Program Code(s): 11700] | [5] N/A |
| (3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4).[15] [Program Code(s): 11600, 12000] | [5] N/A |
| (4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2).[15] [Program Code(s): 12010] | N/A |
| B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[16] [17] Application [Program Code(s): 11210] | $2,700 |
| C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240] | $8,900 |
| D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231] | $5,100 |
| E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710] | $6,300 |
| F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820] | $8,500 |
| 3. Byproduct material: | |
| A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213] | $27,400 |
| (1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014] | $36,400 |
| (2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04011, 04013, 04015] | $45,500 |
| B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162] | $9,600 |
| (1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116] | $12,700 |
| (2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04111, 04113, 04115, 04117] | $15,800 |
| C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4) of this chapter. Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513] | $9,000 |
| (1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214] | $12,000 |
| (2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. [Program Code(s): 04211, 04213, 04215] | $16,200 |
| D. [Reserved] | [5] N/A |
| E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520] | $9,900 |

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees [1] [2] [3] |
|---|---|
| F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511] | $8,900 |
| G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521] | $72,100 |
| H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255, 03257] | $8,700 |
| I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03253, 03256] | $17,400 |
| J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243] | $3,600 |
| K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244] | $2,700 |
| L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613] | $12,500 |
| (1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622] | $16,600 |
| (2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623] | $20,700 |
| M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620] | $13,400 |
| N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C.[21] [Program Code(s): 03219, 03225, 03226] | $15,200 |
| O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1–5. [Program Code(s): 03310, 03320] | $29,100 |
| (1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312] | $38,700 |
| (2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: More than 20. [Program Code(s): 04311, 04313] | $48,600 |
| P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130] | $9,900 |
| (1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438] | $13,100 |
| (2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: More than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439] | $16,300 |
| Q. Registration of devices generally licensed under part 31 of this chapter | [13] N/A |
| R. Possession of items or products containing radium–226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section: [14] | |
| (1). Possession of quantities exceeding the number of items or limits in § 31.12(a)(4), or (5) of this chapter but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700] | $6,000 |
| (2). Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter [Program Code(s): 02710] | $6,400 |
| S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210] | $23,800 |
| 4. Waste disposal and processing: | |

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees [1] [2] [3] |
|---|---|
| A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03236, 06100, 06101] | $22,500 |
| B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234] | $15,800 |
| C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232] | $8,700 |
| 5. Well logging: | |
| A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112] | $12,500 |
| B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113] | [5] N/A |
| 6. Nuclear laundries: | |
| A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218] | $28,100 |
| 7. Medical licenses: | |
| A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02300, 02310] | $27,100 |
| (1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04510, 04512] | $36,100 |
| (2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: More than 20. [Program Code(s): 04511, 04513] | $45,200 |
| B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02110] | $37,000 |
| (1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04710] | $49,300 |
| (2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: More than 20. [Program Code(s): 04711] | $61,500 |
| C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 1-5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160] | $16,800 |
| (1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 6–20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828] | $16,900 |
| (2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: More than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829] | $20,900 |
| 8. Civil defense: | |
| A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710] | $6,000 |
| 9. Device, product, or sealed source safety evaluation: | |

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

| Category of materials licenses | Annual fees [1] [2] [3] |
|---|---|
| A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution | $17,900 |
| B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices | $9,300 |
| C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution | $5,500 |
| D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel | $1,100 |
| 10. Transportation of radioactive material: | |
| A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers. | |
| 1. Spent Fuel, High-Level Waste, and plutonium air packages | [6] |
| 2. Other Casks | [6] |
| B. Quality assurance program approvals issued under part 71 of this chapter. | |
| 1. Users and Fabricators | [6] N/A |
| 2. Users | [6] N/A |
| C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices) | [6] N/A |
| 11. Standardized spent fuel facilities | [6] N/A |
| 12. Special Projects [Program Code(s): 25110] | [6] N/A |
| 13. A. Spent fuel storage cask Certificate of Compliance | [6] N/A |
| B. General licenses for storage of spent fuel under § 72.210 of this chapter | [12] N/A |
| 14. Decommissioning/Reclamation: | |
| A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200] | [7] [20] N/A |
| B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed | [7] N/A |
| 15. Import and Export licenses | [8] N/A |
| 16. Reciprocity | [8] N/A |
| 17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614] | $340,000 |
| 18. Department of Energy: | |
| A. Certificates of Compliance | [10] $1,354,000 |
| B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities [Program Code(s): 03237, 03238] | $117,000 |

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of part 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

[10] This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

[16] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[17] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

[19] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

[20] No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

[21] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

■ 18. In § 171.17, revise paragraphs (a)(1) and (2) to read as follows:

**§ 171.17 Proration.**

(a) * * *

(1) *New licenses.* (i) The annual fees for new licenses for power reactors and small modular reactors that are subject to fees under this part, for which the licensee has notified the NRC on or after October 1 of a fiscal year (FY) that the licensee has successfully completed power ascension testing, are prorated on the basis of the number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(ii) The annual fees for new licenses for non-power production or utilization facilities, 10 CFR part 72 licensees who do not hold 10 CFR part 50 or 52 licenses, and materials licenses with annual fees of $100,000 or greater for a single fee category for the current FY, that are subject to fees under this part and are granted a license to operate on or after October 1 of a FY, are prorated on the basis of the number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(2) *Terminations.* The base operating power reactor annual fee for operating reactor licensees or the annual fee for small modular reactor licensees, who have requested amendment to withdraw operating authority permanently during the FY will be prorated based on the number of days during the FY the license was in effect before docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect. The spent fuel storage/reactor decommissioning annual fee for reactor licensees who permanently cease operations and have permanently removed fuel from the site during the FY will be prorated on the basis of the number of days remaining in the FY after docketing of both the certifications of permanent cessation of operations and permanent removal of fuel from the site. The spent fuel storage/reactor decommissioning annual fee will be prorated for those 10 CFR part 72 licensees who do not hold a 10 CFR part 50 or 52 license who request termination of the 10 CFR part 72 license and permanently cease activities authorized by the license during the FY based on the number of days the license was in effect before receipt of the termination request. The annual fee for materials licenses with annual fees of $100,000 or greater for a single fee category for the current FY will be prorated based on the number of days remaining in the FY when a termination request or a request for a possession-only license is received by the NRC, provided the licensee permanently ceased licensed activities during the specified period. The annual fee for non-power production or utilization facilities will be prorated based on the number of days remaining in the FY when the authorization to operate the facility has been permanently removed from the license during the FY.

* * * * *

■ 19. Add § 171.26 to read as follows:

**§ 171.26 Right to dispute assessed fees.**

All debtors' disputes of fees assessed must be submitted in accordance with 10 CFR 15.31.

Dated: June 9, 2021.

For the Nuclear Regulatory Commission.

**Cherish K. Johnson,**

*Chief Financial Officer.*

[FR Doc. 2021–12546 Filed 6–15–21; 8:45 am]

**BILLING CODE 7590–01–P**

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**Federal Register**

Vol. 86, No. 114

Wednesday, June 16, 2021

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